

515.d 6  
3  
bte

THE  
L A W S  
RESPECTING  
LANDLORDS, TENANTS,  
AND  
LODGERS,

Laid down in a *plain, easy* and *familiar* Manner ;

Together with  
PRACTICAL DIRECTIONS

CONCERNING

LEASES,  
ASSIGNMENTS,  
SURRENDERS,  
AGREEMENTS,

COVENANTS,  
REPAIRS,  
WASTE,  
FIRE, &c.

*Demand* and *Payment* of RENT, DISTRESS and EJECTMENT ;

As collected from the several  
REPORTS AND OTHER BOOKS OF AUTHORITY,  
Up to the PRESENT TIME.

To which are also added,  
CAUTIONS and DIRECTIONS relative to the HIRING and LETTING  
of HOUSES and APARTMENTS.

ALSO  
DISTINCT TREATISES  
ON THE VARIOUS KINDS OF ESTATES,  
Particularly ESTATES for LIFE, for YEARS, and  
COPYHOLD ESTATES.

WITH AN APPENDIX OF PRECEDENTS,

*Comprising a great Variety of the most approved Forms of*  
LEASES, ASSIGNMENTS, SURRENDERS, COVENANTS, NOTICES TO  
QUIT, RECEIPTS FOR RENT, AND PRECEDENTS IN DISTRESS.

*To which is likewise now affixed. for the Assistance of the*  
*unprofessional Reader,*

A Dictionary of LAW TERMS, explaining the Import of such  
technical Words and Phrases as occur in  
the Work.

---

THE THIRD EDITION, REVISED, ENLARGED AND IMPROVED,

By JAMES BARRY BIRD, of New-Inn, Esq.

---

LONDON:

Printed for W. CLARKE & SON, Porticoal Street, Lincoln's Inn, 1796.

[Price 2s. 6d.]

T

was

Edi

five

be a

mea

som

Thi

have

prob

to fa

usef

pear

lific

as t

mat

use

fuch

fale

to h



---

## P R E F A C E.

THE Laws respecting Landlords and Tenants, as was justly observed by the Editor of the former Editions of the present work, compose so extensive a division of the English code, that there can hardly be an individual in the nation, however elevated or mean his condition, who is not essentially interested in some or other of the numerous objects they embrace. This universal relation has from time to time, as might have been expected, given rise to various compilations, professing, some to compress, some to amplify, and some to familiarize a subject acknowledged to be so generally useful and important; but of those which have yet appeared, none seems to have united the many essential qualifications to a work of this sort with so much success, as the present. The arrangement is perspicuous, the matter judicious, and the composition well adapted to the use of those who are most likely to stand in need of such an assistant; and, indeed, from the rapidity of the sale of the former impressions, a similar opinion seems to have prevailed with the public.

THE intrinsic merit of the performance, together with the favourable reception with which it has been received, induced me, at the request of the Publisher, to submit it to such a revival, preparatory to the third impression, as might make it still more perfect; and acceptable, not only to the public at large, but also to the unprofessional reader. And from the additions which it has now received, I believe myself justified in asserting, that no material decision is omitted, which would tend to elucidate the subject, or may be necessary for the reader's information: but in this, from the multitude of my other engagements, I may possibly have deceived myself: I trust, however, that should any omission, or other inaccuracy have escaped me, my endeavours to benefit the public, by presenting them with an improved edition of so necessary a Compendium, will insure me their indulgence, if I fail to merit their applause.

NEW-INN,  
*M. Michaelmas Term, 1796.*

# TABLE OF CONTENTS.

CHAP. I.		
Of Estates in general	-	Page 1
CHAP. II.		
Of Estates of Inheritance	-	2
I. <i>An estate in fee-simple</i>	-	ibid
II. <i>A qualified fee</i>	-	ibid
III. <i>A conditional fee</i>	-	3
IV. <i>An estate tail</i>	-	ibid
CHAP. III.		
Of Estates of Freehold, but not of Inheritance	-	4
I. <i>An estate for life</i>	-	ibid
II. <i>An estate-tail, after possibility of issue extinct</i>	-	7
III. <i>An estate by the curtesy of England</i>	-	8
IV. <i>An estate in dower</i>	-	ibid
V. <i>An estate in jointure</i>	-	ibid
CHAP. IV.		
Of Estates less than Freehold	-	9
I. <i>An estate for years</i>	-	ibid
1. <i>Who may grant estates for years</i>	-	10
2. <i>The requisites to constitute a valid lease</i>	-	12
3. <i>Of covenants, provisoes, and agreements in leases for years</i>	-	15
4. <i>The interest a lessee for years has in the premises demised to him, and other incidents to an estate for years</i>	-	22
5. <i>The means by which an estate for years may be destroyed,</i>	-	23
<i>viz. By Assignment</i>	-	ibid
<i>Surrender</i>	-	28
<i>Forfeiture</i>	-	30
1. <i>For alienation</i>	-	31
2. <i>For waste</i>	-	32
3. <i>For non-payment of rent</i>	-	33
6. <i>Of Agreements for leases, &amp;c.</i>	-	34
II. <i>Of an estate at will</i>	-	36
III. <i>Of an estate by sufferance</i>	-	38
CHAP. V.		
Of Copyhold Estates	-	39
CHAP. VI.		
Of Estates in Severalty, joint-tenancy, coparcenary, and common	-	49
CHAP. VII.		
Of Notice to quit	-	52
CHAP. VIII.		
Of Rents	-	55
I. <i>Concerning the reservation of rent</i>	-	ibid
II. <i>To whom rent is payable on the death of the lessor, and in certain other cases</i>	-	57
III. <i>Of demand of rent</i>	-	58
IV. <i>Of tender and refusal of rent</i>	-	59
V. <i>Of acceptance of rent</i>	-	60
VI. <i>Of the recovery of rent in arrear</i>	-	61

## CONTENTS.

Concerning DISTRESS for rent in arrear.	63
1. Who may distrain and who not	64
2. What things can be taken in distress, and what not	66
3. Of the time and manner of making distress	70
4. How a distress is to be disposed of	73
5. How distress may be replevied	75
6. Practical directions for making distress	ibid
Of EJECTMENT for recovery of rent in arrear	76

### CHAP. IX.

Miscellaneous Observations; cautions, and directions relative to the taking of houses and apartments in London	78
--	----

### APPENDIX OF PRECEDENTS.

I. Agreements	81
II. Leases	87
III. Assignments	103
IV. Surrenders	110
V. Notices to quit, to pay rent, and to repair	113
VI. Receipts for rent	116
VII. Precedents in distress	117

See the above several Titles in the Index.

### An Explanation of the Contractions made use of in this Work.

<p>Amb. Ambler's Reports.</p> <p>And. Anderson's Reports.</p> <p>Atk. Atkyn's Reports.</p> <p>Bac. Ab. Bacon's Abridgement.</p> <p>Black. Com. Blackstone's Commentaries.</p> <p>Bro. or Brow. Brown's Chancery Cases.</p> <p>Bro. Dist. Brooke's Abridgement, Title, Distress.</p> <p>Bur. Burrow's Reports.</p> <p>Co. Coke's Reports.</p> <p>Co. Cop. Coke's Copyholder.</p> <p>Co. Lit. Coke upon Littleton, 8vo. edition.</p> <p>Cow. Cowper's Reports.</p> <p>Cro. Eliz. Croke's Reports in the time of Elizabeth.</p> <p>Cro. Jac. Croke's Reports in the time of James I.</p> <p>Cro. Car. Croke's Reports in the time of Charles I.</p> <p>Doug. Douglas's Reports.</p> <p>Dy. or Dyer. Dyer's Reports.</p> <p>Dist. Distress.</p> <p>Esp. Espinasse's Law of Nisi Prius.</p> <p>Esp. Espinasse's Cases.</p> <p>Fonb. Tr. Eq. Fonblanque's Edition of Treatise of Equity.</p> <p>Gilb. Gilbert's Reports.</p> <p>Hob. Hobart's Reports.</p>	<p>Inst. Coke's Institutes.</p> <p>Leo. Leonard's Reports.</p> <p>Lev. Levintz's Reports.</p> <p>Lil. Conv. Lilly's Conveyancer.</p> <p>Lit. Littleton's Tenures.</p> <p>Lutw. Lutwick's Reports.</p> <p>Mod. Modern Reports.</p> <p>Moor. Moor's Reports.</p> <p>Noy Max. Noy's Maxims of the Laws of England. 6th edition.</p> <p>Ow. Owen's Reports.</p> <p>P. Page.</p> <p>Peak. Ca. Peake's Cases.</p> <p>Perk. Perkins' profitable Book.</p> <p>Plow. Plowden's Commentaries.</p> <p>P. Wil. Peere Williams' Reports.</p> <p>Raym. Raymond's Reports.</p> <p>Roll. Ab. Roll's Abridgement.</p> <p>Salk. Salkeld's Reports.</p> <p>Show. Showers' Reports.</p> <p>Sty. Styles' Reports.</p> <p>Term Rep. Term Reports by Durnford and East.</p> <p>Vaugh. Vaughan's Reports.</p> <p>Vent. Ventris's Reports.</p> <p>Vez. Vezey's Reports.</p> <p>Vid. See.</p> <p>Willf. Willson's Reports.</p>	
--	--	--

Explana

Assignment

Alien—A

Ante—Bel

Amenable

Appoition

Approve

wh

ow

Appurtenances

Assignment

Assignor

Assignee

Assignfit

the

Attornment

is h

Avowing

Baron—A

Cart-hote

Cestui-que-tru

is h

Cause—Du

Contract

Copyhold

Coparceners

Covenant

Dred—Is a

Dele—Lea

Distress—

Denizen—

priv

Dower—Is

to l

Ejectment

Emblements

pir

Essoers

able

cart

—th

of h

Fie-fimple

Feme Covert

Fessment

fessin

Fine—A sp

vey

Carrel-kind

the

*Explanation of LAW-TERMS made use of in the following Treatise.*

- Agistment*—**T**HE feeding or depasturing of other person's cattle at a certain price per week.
- Alien*—A person born out of the King's dominions.
- Ante*—Before
- Ameable*—Answerable in a court of justice.
- Appoition*—To divide a thing amongst those who are by law entitled to it.
- Approve*—This word is applied to commons and waste grounds, to *approve* which, is to inclose, or otherwise appropriate them to the use of the owner of the soil, leaving sufficient for the cattle of the commoners.
- Appurtenances*—Are all such things as in any wise belong to the thing demised.
- Assignment*—Defined, or explained, p. 23.
- Assignor*—Is he who assigns or makes over property to another.
- Assignee*—Is he to whom an assignment of property is made.
- Assumpsit*—Is a species of action at law, used for the recovery of damages for the breach of any promise or undertaking.
- Attornment*—Is a formal or express acknowledgment by a tenant, that another is his lawful landlord
- Avowing*—Is an acknowledgment and justification of taking a distress.
- Baron*—An old word, signifying husband.
- Cart-bote*—See *Esflovers*.
- Cestui-que-trust, & Cestui-que-use*—Are those for whose use or benefit an estate is holden by another,
- Clause*—Defined, p. 15.
- Contract*—Means a bargain or agreement in respect to any thing.
- Copyhold*—Defined, p. 39.
- Coparceners*—Are those to whom lands descend from the same ancestor.
- Covenant*—Defined, p. 15.
- Deed*—Is a writing sealed and delivered by the parties.
- Dele*—Leave out.
- Distress*—Defined, p. 63.
- Denizen*—Is one who though born an alien, is allowed, by letters patent, the privilege of purchasing and holding land.
- Dower*—Is the third part of a man's real estate, which on his death descends to his wife for life.
- Ejectment*—Defined, p. 76.
- Emblements*—Are such part of the produce of land, &c. as arise after the expiration of a tenant's term. See p. 5.
- Esflovers*—Are a reasonable quantity of wood allowed by law to a tenant to enable him to keep in repair the premises demised to him; to make carts, ploughs, and other instruments of husbandry; and for firing—these allowances are termed *botes*, and distinguished by the names of *house-bote*, *fire-bote*, *cart-bote*, and *plough-bote*.
- Fee-simple*—Defined, p. 2.
- Feme Covert*—A married woman.
- Feoffment*—A species of deed by which lands are conveyed and immediate possession thereof given.
- Fine*—A species of assurance by which a married woman is permitted to convey an estate—used also for other special purposes.
- Gavel-kind*—A custom in some parts of England by which land descends to all the sons equally, and not to the eldest only, as by the common law.



### Explanation of Law Terms.

**Glebe**—The land to which the parson or rector of the parish is entitled in right of his church.

**Grantor**—A person who conveys any thing to another by means of a deed of grant.

**Grantee**—A person to whom a grant is made.

**Hereditaments**—Signifies any thing to which a person may inherit or be heir.

**Heriot**—Is the best beast or other chattel due to the Lord on the death of a copyholder.

**House-bote & Hedge-bote**—See *Eftovers*.

**Idiot**—A person void of reason.

**In esse**—In being or existence.

**Infant**—A person under the age of 21 years.

**Inheritance**—The heirship, or fee simple.

**Joint-tenant**—Defined, p. 49.

**Jointure**—A provision settled on a wife in lieu of dower.

**Incidents**—Properties or qualities which belong to, and are inseparable from a thing.

**Levant & Couchant**—Words used in law to signify the lying down to rest, and rising up again to feed of cattle.

**Lessor**—A person who demises land, &c. to another; a landlord.

**Lessee**—A person to whom land &c. is let upon lease; a tenant.

**Mortgage**—Land is said to be in mortgage when it is pledged for the payment of a sum of money.

**Nomine pene**—Is a penalty stipulated to be forfeited in case of the breach of any covenant or agreement.

**Oust**—To oust, is to turn out of possession.

**Parceners**—Defined, p. 50.

**Post**—After.

**Proviso**—Defined, p. 15.

**Plough-bote**—See *Eftovers*.

**Remainder**—That portion of an estate which remains after a certain part of it is granted away.

**Reversion**—That portion of an estate which reverts back to the grantor after the grant is at an end.

**Replevy**—To replevy goods taken in distress, is to reclaim them on giving security to try the lawfulness of such distress, and to restore them if lawful.

**Supra**—Above.

**Surrender**—Defined, p. 28.

**Tail**—Defined, p. 3.

**Tenement**—Any thing which may be holden or possessed by a person.

**Trustee**—One who holds an estate for the use of another.

**Waste**—Defined, p. 32.

---

### ERRATA.

Page 4, last line but one, for "would" read "should."

78, for "claims" read "clauses."

79, for "receipt" read "receipts."



---

THE  
L A W S  
OF  
LANDLORD AND TENANT.

---

CHAP. I.  
OF ESTATES IN GENERAL.

**A**N *estate* is that *interest* which a person has in lands, An estate, what.  
or tenements; this by the laws of England may be  
various: it may be for a certain number of years,  
months, or days; it may be for a man's own life, or the  
life of another person; it may determine at his decease,  
or remain to his descendants after him; or, lastly, it may  
be absolute and unlimited, being vested in him and his  
representatives for ever. In technical language, these  
different estates are denominated as follows: *estates in fee-*  
*simple*; and *fee-tail*, which are freeholds of inheritance;  
*estates for life*; *after possibility of issue extinct*; *by the curtesy*;  
*in dower*; and *in jointure*, which are estates of freehold,  
but not of inheritance; *estates for years*; *at will*; and *at*  
*sufferance*, which are neither of freehold nor of inher-  
itance; *estates by copy of court-roll*, some of which are, and  
some are not, of inheritance; *estates in joint-tenancy*; *in*  
*common*; and *in coparcenary*, which may be had in any of the  
preceding estates. Concerning each of these, we shall  
speak in the order we have here enumerated them, being  
more or less diffuse in our observations, as they may sever-  
ally appear to have greater or less relation to the subject  
of *Landlord and Tenant*. The various  
kinds of estates.

B

## CHAP. II.

## OF ESTATES OF INHERITANCE;

AND

I. *Of an Estate in Fee-Simple.*

An estate in fee-simple.

In what it may be had.

Its incidents.

**A**N estate in fee-simple is where a man has lands, tenements, or hereditaments, to hold to him and his heirs for ever, (viz. to have the *use* and take the *profits* thereof to him and his heirs, for the *absolute property* of the soil can belong to no *subject*, but always resides in the king). This estate may be had in any kind of hereditaments, corporeal, or incorporeal, as lands, houses, advowsons, tythes, &c. and is the highest and most extensive interest a man can possess in any property. It may be granted and disposed of either by deed or will, at the owner's pleasure; and if he make no disposition of it in his life-time, it will, on his death, descend to his heirs of the whole blood, that is, to his lineal descendants. All the inferior estates of which we shall have occasion to treat in the ensuing pages, are derived out of, and compose a part of this: an estate for life or years, for instance, is only a certain portion of the estate of him who has the *fee*, to whom, on the death or other determination of the estate of the present possessor, it will revert to be held again in fee-simple. Estates in fee are subject to the dower of the wife, chargeable with debts of record, and may be forfeited for treason. *Co. Lit. § 1. Noy Max. 6th edit. p. 43.*

II. *Of a base or qualified Fee.*

A base fee.

A base, or qualified fee, is that which has a qualification annexed to it, by which it will determine whenever the qualification is at an end; as where Hen. 6. granted to John Talbot, that he and his heirs, *lords of the manor of Kingston Lisle*, should be peers of the realm: here J. Talbot had a base, or qualified fee, in that dignity, which determined the instant he or his heirs ceased to be lords of the said manor. This estate is reckoned a fee, because by possibility it may endure for ever; but, as it at the same

time depends upon concurrent and collateral circumstances, which debase the purity of the fee, it is called a base, or qualified fee. *Co. Lit.* 27. a. 2 *Black. Com.* 109.

### III. *Of a Conditional Fee.*

A conditional fee was, at the common law, a fee restrained to some particular heirs, exclusive of others, as to the heirs of a man's *body*, which admitted only his lineal descendants. This estate was nearly extinguished by the stat. 13 Ed. 1. c. 1. commonly called the statute de donis, which gave rise to the modern estate tail. *Co. Lit.* 19. a. A fee conditional.

### IV. *Of an Estate-Tail.*

An estate-tail may be either general or special; general, where lands and tenements are restrained to the heirs of a man's body generally; special, where they are restrained to some *particular* heirs of his body, as to the heirs of his body by his wife *Mary*, &c. Estate-tail.

The principal incidents to a tenancy in tail are these: Its incidents.  
 1. a tenant in tail may commit *waste* on the estate-tail by felling timber, pulling down houses, or the like, without being liable to account for the same. 2. The wife of a tenant in tail shall have her dower or thirds of the estate-tail. 3. The husband of a female tenant in tail may be tenant by the curtesy of the estate-tail. 4. A tenant in tail may, by stat. 32 Hen. 8. c. 28, (under certain restrictions there mentioned) grant leases of the estate-tail for the term of 3 lives, or 21 years. 5. An estate-tail may be barred or destroyed by a fine, or a common recovery, or by lineal warranty, descending with assets to the heir, or by committing treason. *Co. Lit.* 19. b. 224. a.

The reader perceives, that we have been exceedingly concise in our remarks on the estates mentioned in this chapter; they have, in truth, been noticed only for the sake of method; for when considered under the particular denominations here enumerated, they in no respect concern the relation between landlord and tenant, both those capacities being then concentrated in the same person; but immediately on their being granted out by their owners to inferior tenants, they become intimately connected with our subject, and will therefore meet with a full discussion under one or other of the ensuing heads. Observation

## CHAP. III.

OF ESTATES OF FREEHOLD, BUT NOT  
OF INHERITANCE;

AND

I. *Of an Estate for Life.*An estate for  
life.

**A**N estate for life is where a man has lands or tene-  
ments to hold during his own life, or the life of  
some other person, or for some other uncertain period,  
which by possibility may continue for life. *Co. Lit.* 41. b.

As this estate under one or other of the above defini-  
tions is by far more frequent amongst those for whom we  
have adapted the present treatise than either of those we  
have before noticed, we shall be somewhat more particu-  
lar in our remarks upon it, and consider briefly, 1. How  
it may be created. 2. What are its incidents; and, 3.  
How it may be destroyed.

1. How created.

Estates for life may be created not only by a grant to a  
person expressly for life, but also by a general grant, with-  
out defining or limiting any specific estate, as, if I grant  
“to Philip Downing my house at Hampstead.” This  
makes him tenant for life; for though it cannot be a fee  
for want of the word *heirs*, it shall be construed to be as  
large an estate as the words of the donation will bear,  
and therefore an estate for life. *Co. Lit.* 42. a.

It may be proper to remark here, that in order to create  
a valid estate for life, it is material that it be made to com-  
mence on the same day upon which it is granted; for at  
common law no estate of freehold can be created without  
actual possession being given of the thing granted. A  
lease for life, therefore, to begin at *Michaelmas next*, would  
be void, for possession cannot be given *now*, of an estate  
which is not to commence till a *future* period. 5 *Co.* 94.

To preserve this requisite, some attention is necessary  
in the wording of a lease for life. If it be made to com-  
mence “*from the day of the date*,” (which has too fre-  
quently been done) the day on which it is dated will be  
excluded, and the lease consequently void. *Loft. Rep.*  
296. It would therefore be made to commence “*from*  
*henceforth*,” “*from the making hereof*,” or the like,

which expressions include the day of making. *Co. Lit.* 45. 1 *Wils.* 176.

It has, however, been held that a lease, under a *power* in a marriage settlement to grant leases in *possession*, and not in *reversion*, is good, though made to begin "from the day of the date." *Doug.* 53. 565. *Cowp.* 711. This decision proceeded on the principle of effectuating the intention of the parties, and to substantiate so necessary a provision in marriage settlements.

The incidents to an estate for life are principally the following: A tenant for life has a right to the full use and enjoyment of his estate, and of all profits or advantages which may arise from it, such only excepted as, if taken, would be to the permanent loss of the person entitled to the reversion: he may, therefore, unless restrained by particular covenants, as may also his lessee, or undertenant, take house-bote, cart-bote, and hay-bote, *viz.* sufficient wood from off the estate for the necessary purposes of *repairs, firing, and implements of husbandry*, without any express assignment thereof in his lease; he has also a right to the pollards, and dotards, and to the plashings of quicks and coppice wood, (but he must be careful to fence in the stocks, so that the growing shoots be not destroyed by cattle,) but he is not at liberty to cut down timber trees, pull down houses, or commit other *waste* upon the premises, for the destruction of such things would tend to impoverish the estate of the reversioner; and they are moreover neither the temporary profits of the land, nor necessary for the complete enjoyment of the estate. *Co. Lit.* 53. b. 4 *Co.* 63. a.

The law will not suffer a tenant for life to be prejudiced by any such sudden or casual determination of his estate as he could not foresee or prevent.

Therefore, if tenant for life sow his land, and die before the corn, &c. be ripe, though his estate be determined, yet shall his executors have the crop and other *emblements*; for to sow the land was a public benefit, tending to the increase and plenty of provisions, and ought to have the utmost encouragement. *Noy Max.* c. 9. Emblements are not only corn and other grain sown, but also roots planted, and in general, all *annual, artificial profits* of the land; but *fruit trees, grasses, and the like*, are not reckoned emblements, because not planted annually, at the expence and labour of the tenant; but being a *natural and permanent* profit of the earth. 2 *Black. Com.* 122.

2. Its incidents.

Tenant for life has a right to the full enjoyment of his estates.

May take estates.

Must not commit waste.

Not prejudiced by accidents.

Shall therefore have emblements in some cases;



And so it is if the estate of tenant for life be determined by the act of law, for "the law worketh not injury."

Therefore, if an estate be granted to a man and woman during coverture, (which would give them a determinable estate for life) and they be divorced, still the husband shall have the corn, &c. previously sown; for the sentence of divorce was the act of law. *5 Co. 116.*

but not in all.

But it would be otherwise if the estate were determined by the wilful act of the parties themselves.

As if tenant for life forfeit his estate by committing waste, granting his estate in fee, &c. in these and similar cases, he shall lose the emblements, and must leave upon the premises whatever may be growing at the time of its determination; and indeed what right can he claim to that which he has voluntarily relinquished? *Co. Lit. 55. a.*

As to his lessees.

Another incident to estates for life, regards the lessees, or undertenants, to whom the law is equally favourable as to their lessors, the original tenants for life, and in some cases more so, for they are not only entitled to estovers and emblements, as the original tenant for life is, but in some cases where the original tenant shall not have them on account of having determined his estate by his own act, yet his lessee shall, who is a third person, and ought not to be hurt by the default of his lessor. *Ibid. Cro. Eliz. 461.*

As, if a woman hold lands during celibacy, and marry, this being her own act, she shall lose her emblements; but if she have leased her estate to an undertenant, her marriage will not deprive him, because he was a stranger to the act, or if otherwise could not have prevented it. *1 Rol. Ab. 727.*

Executors &c.  
may recover  
rent of lessees  
after tenant for  
life's death.

And until the last reign, a lessee of tenant for life, in case of the death of his lessor, between the quarter-days appointed for rendering his rent, might lawfully quit the premises without paying any since the last quarter-day; but this unreasonable privilege was remedied by *11 Geo. 2. c. 19.* which enacts, that the executors or administrators of tenant for life, shall recover of the lessee a rateable proportion of rent from the last day of payment to the death of the lessor.

Action of debt  
may be had for  
rent.

It may here also be observed, that at the common law there was no other mode of recovering rent due from tenant for life than by distress; but now by stat. *8 An. c. 14.* any person having rent in arrear, due, on lease for life or lives, may have action of debt for the same as if due upon lease for years.

W  
esta

T  
long  
ther

T  
hood

estat

wom

subfi

of th

bility

are t

Blac

A

void

to it,

Term

A

fion

waste

leased

sister

more

Forfe

W

than

acted

elless

suffic

action

dead

terwa

the in

fame.

Con

rear,

for lif

chap.

Th

tenan



We now proceed to consider the means by which an estate for life may be determined or destroyed.

3. How an estate for life may be destroyed.

Though estates for life will, generally speaking, last as long as the life for which they are granted continues, yet there are some estates for life which may determine sooner.

Thus, if a lease be made to a woman during her widowhood, or to a man till he be promoted to a benefice, these estates are absolutely determined on the marriage of the woman, or the man's obtaining a benefice; yet whilst they subsist they are reckoned estates for life, because the term of their continuance being uncertain, they may by possibility last for life, viz. if the contingencies on which they are to determine do not sooner happen. 3 Co. 20. 2 Black. Com. 121.

By breach of condition.

And so a lease for years, executed by tenant for life, is void on his death, though the reversioner be made a party to it, and afterwards execute in order to confirm it. 1 Term Rep. 86.

An estate for life will also determine by the commission of any legal act of forfeiture; as by committing waste: granting a greater interest than the tenant is possessed of; or, in short, the doing any act which is inconsistent with the nature of this estate; what these are will be more particularly stated hereafter. Chap. 4. §. 5. tit. Forfeiture.

By forfeiture.

We shall probably meet with no more convenient place than this to mention, that, "By 29 Car. 2. c. 6. it is enacted, that if tenant for life shall remain beyond sea, or elsewhere absent himself for seven years together, and no sufficient proof be made of his being living, he shall in any action brought by the lessee, or reversioner, be accounted dead." But by the same act it is provided, that, if he afterwards return, or appear to be living, he shall recover the intervening profits of the land with interest for the same.

Tenant for life absent for 7 years, shall be presumed to be dead.

Concerning the mode of demanding and recovering rent in arrear, together with such other incidents and properties of an estate for life as it has in common with an estate for years, see post. chap. iv. & viii.

## II. Of an Estate-Tail, after Possibility of Issue extinct.

This appellation is given to the estate of one who being tenant in special tail, (that is, to hold to him and his heirs

An estate-tail after possibility of issue extinct.

by some particular woman,) the person from whose body the issue was to spring dies without issue, or having issue, such issue becomes extinct. *Co. Lit.* 27. b.

### III. *An Estate by the Curtesy of England.*

An estate by  
the curtesy of  
England.

This happens when a man marries a woman seized of an estate of inheritance, and has by her issue born alive and capable of inheriting the estate, and she dies, the husband is then entitled to the estate as tenant by the curtesy of England. To entitle a man to be tenant by the curtesy, the marriage must be legal; the wife must have been actually in possession of the lands, and the issue must be born alive. 2 *Black. Com.* 145.

### IV. *Of an Estate in Dower.*

An estate in  
dower.

Which is, where a husband being seized of an estate of inheritance dies, leaving his wife surviving. In this case she shall have, during her life, a third part of all lands and tenements of which her husband was so seized at any time during their marriage. A woman will forfeit her dower by aliening the lands assigned to her; by divorce; by elopement; by the treason of her husband; and may bar it by levying a fine, or suffering a recovery during her coverture. *Lit.* § 36.

### V. *Of an Estate in Jointure.*

Jointure.

A jointure is defined by Sir Edw. Coke to be a competent livelihood of freehold for the wife, of lands and tenements, to take effect in profit or possession immediately on the death of her husband. To constitute a good jointure, it must be for her own life; it must be made to herself and not another, in trust for her; it must be, and so expressed to be, in lieu of dower. If the jointure be settled before marriage, the observance of these requisites will prevent her claiming her dower; but if not till after marriage, she may notwithstanding refuse the jointure, and take her dower at common law. *Co. Lit.* 36. b.

Observation.

These estates of *tenant in tail after possibility of issue extinct*, *Tenant by the curtesy*, *Tenant in dower*, and *Tenant in jointure*, are equivalent to the estate for life, which we recently spoke of, and partake in general of the same privileges and disabilities as that estate; we shall therefore say no-

thing  
they h  
will o  
chapt

AN  
ing th  
made)  
ments  
paid o  
Ab. Th  
which  
riod, l  
be an c  
called  
duratio  
it is in  
year, c  
but fo  
still re  
This  
referre  
on acc  
among  
volum  
our par  
of view

1. W
2. V
3. C

thing farther concerning them at present ; particularly as they have but little relation to our general subject, and will occasionally be noticed in some of the subsequent chapters.

CHAP. IV.

OF ESTATES LESS THAN FREEHOLD ;

AND

I. *Of an Estate for Years.*

**A**N estate for years may be defined to be a contract or agreement between the lessor, (i. e. the person making the lease) and the lessee, (the person to whom it is made) ; for the possession and profits of lands and tenements on the one side, and a rent or recompence to be paid on the other, for some determinate period. 2 *Bac. Ab. Tit. "Leases."* 2 *Black. Com.* 140. and every estate which must necessarily expire at a certain and prefixed period, by whatever words created, is in law construed to be an estate for years ; for which reason it is frequently called a *term*, from the Latin word *terminus*, because its duration or continuance is bounded and determined ; and it is immaterial whether it be for the complete term of a year, or for a longer or shorter period ; for though it be but for half a year, or a quarter, or any less time, it is still respected as an estate for years, 2 *Black. Com.* 140.

An estate for years defined.

This being the estate to which we have so frequently referred in the preceding part of our work, and to which, on account of its great frequency, (and more especially amongst those for whose information and use the present volume is principally designed) we have promised to give our particular attention, we shall consider it in five points of view, and enquire,

1. Who may grant an estate for years, or in other words, who are enabled to make a good lease for years.
2. What requisites are to be observed in order to constitute a valid lease.
3. Of covenants, provisos, clauses, and agreements in leases for years.

4. The interest a lessee for years has in the premises demised to him ; with some other miscellaneous incidents to his estate.
5. By what means an estate for years may be barred or determined ; and,
6. Of the nature and effect of agreements, whether for leases or other transfer of premises.

*And first, concerning who may grant an Estate for Years.*

Who may grant leases.

It may be said in general, that all persons seized in fee-simple, fee-tail, for term of life, or years, of lands or tenements, may grant *leases* thereof for any term *less* than their own respective interests. It is not here meant that they are restrained from granting their *whole* interest ; only in that case the conveyance loses the name of *lease*, and is denominated an *assignment*.

Tenants in fee.

Tenant in fee-simple having an absolute and unlimited interest in his estate, may consequently grant leases of all or any part thereof, for life or years, or otherwise, at his pleasure, without limitation or restraint.

Tenants in tail.

Tenant in tail, by stat. 32 Hen. 8. may, as before observed, grant leases of his estate-tail for 3 lives or 21 years, to commence from the making, or some short time after, so that it be of lands or tenements usually let to farm for 21 years past, and so that the accustomed yearly rent paid within that period be reserved ; the intent of which statute is, that the tenant in possession may not incumber or diminish the value of the estate to the person entitled in reversion.

But it is to be observed, that though it should be made for a longer period, it will be good during that for which it might lawfully have been granted. 1 *Anstr.* 77.

Tenants for life, &c.

Tenants for life, by the curtesy, and in dower, may grant leases of their estate, for their own lives, or the life of the person on whose death their estate will determine, but no longer ; which restriction is for reasons similar to that last mentioned.

Husbands in right of their wives.

Husbands seized of lands, &c. in right of their wives, are authorized by the same stat. of 32 Hen. 8. to make leases thereof for any term not exceeding 21 years, or three lives in being, to commence from the making, in which, however, the wife must join, and the same requisites be observed, and for similar reasons, as in leases made by tenant in tail. *Co. Lit.* 45. b.

But  
of th  
specis  
by the  
p. 5.  
Join  
may n  
respec  
compa  
Exc  
vested  
make  
whole  
hands,  
Ecc  
may al  
der the  
21 year  
rent m  
must b  
will bi  
But  
formab  
son live  
was ma  
Guan  
will, or  
the inf  
beyond  
18. 179  
the inf  
voidabl  
These  
Havi  
der shor  
The  
cal perf  
mitted t  
And  
otherwi  
lands, &  
gagel be  
Infan  
of their



But it has been determined, that though the directions of the statute are not strictly complied with in these respects, the demise is not absolutely void, but voidable only by the entry of the remainder-man. *Doug. 53. & ante, p. 5.*

Joint-tenants, tenants in common and coparcenary, may make leases for life or years, or at will, of their own respective parts, which, at their death, will bind their companions. *Wood Inst. 267.* Joint-tenants, tenants in common, and coparcenary.

Executors and administrators having terms for years vested in them, in right of their testators or intestates, may make leases thereof for any shorter period than their whole term, and the rent reserved will be affets in their hands, and go in a course of administration. *6 Co. 63 b.* Executors and administrators.

Ecclesiastical persons and eleemosynary corporations, may also by the aforesaid stat. 32 Hen. 8. make leases under the following restrictions, viz. they must not exceed 21 years, or 3 lives, from the making. The accustomed rent must be reserved, and the old lease, if one in being, must be within 3 years of expiring; and leases so made will bind their successors. Ecclesiastical persons.

But a lease by a corporation aggregate, though not conformable to the statutes, will be valid as long as the person lives who was at the head of the corporation when it was made. *Co. Lit. 45. a. Bac. Ab. "Leases."*

Guardians of infants, (whether appointed by law, or by will, or chosen by the infant himself), may make leases of the infants' lands for any number of years not extending beyond the term of his minority. *Co. Lit. 88. Vaugh. 18. 179.* If however they be made to continue beyond the infant's minority, they are not absolutely void, but voidable only at the infant's option. *Cro. Jac. 55. 98.—* These leases may be made in the guardian's own name. Guardians.

Having seen who may, it will be proper for us to consider shortly who may not grant leases. Who not.

The restrictions under which tenants in tail, ecclesiastical persons, and husbands in right of their wives, are permitted to grant them, have already been stated.

And it may here be added, that mortgagors cannot otherwise than subject to the mortgage, grant leases of the lands, &c. which they have mortgaged, unless the mortgagee be made privy to it. *Doug. 21.* Mortgagors.

Infants also are in general disabled from making leases of their estates, so as to bind them when they come of

age; lest from ignorance, or by the arts of designing men, they should be led to demise their estates for less than their real value, (except, indeed, in the case of the king, who in law is never deemed to want discretion.) *Dy. 209.*

But by the custom of some places, infants may grant leases at the age of 15 years, which shall bind them after they become of age. *Co. Lit. 45.*

Married women are also incapable of making a valid lease, (unless the power of making leases is expressly reserved to them on their marriage) because they are supposed to be under the controul of their husband, who might compel them to grant their estate contrary to their real interest or inclination.

Aliens, (that is to say) persons born out of the kingdoms of England, Scotland, or Ireland, (and not being naturalized) are by stat. 32 Hen. 8. c. 16. rendered incapable of holding land or houses therein, they are consequently incapable of granting such as they may happen to be kindly permitted to occupy.

## 2. The Requisites to constitute a valid Lease for Years.

2.  
Requisites for  
a good lease.

It seems needless to say that in order to make a good lease, there must be a *lessor* who is in law able to grant the lease—a *lessee* capable of taking the thing leased—and a sufficient description of the estate demised. After which the first requisite to the validity of a lease, and indeed of any other deed, is, that the parties be perfectly free from restraint; for if it be made or accepted from compulsion, as for fear of imprisonment or the like, it will be void. *2 Black. Com. 292.*

Must be in  
writing.

It is also necessary that the lease be made in writing, and not by parol; for, by stat. 29 Car. 2. c. 3. made for the prevention of frauds, it is enacted, that “all leases, interests of freeholds, or *terms of years*, of any uncertain interests, of, in, to, or out of any messuages, lands, tenements, &c. not put into writing and signed by the parties creating or making the same, shall have the force and effect of estates at will only, and shall not, either at law, or in equity, be taken to have any greater effect; except only leases not exceeding 3 years from the making, whereupon the rent reserved shall be at least two thirds of the improved value.”—See the construction of this Statute post *Tit. AGREEMENTS.*

Bu  
be in  
confi  
obser  
and p  
be pa  
suffici  
lease  
hold p  
there  
one sh  
Cro. L  
5 Ten  
In  
be ma  
land,  
for by  
or sh  
born  
the le  
a pena  
tic, st  
courts  
strued  
Show.

And  
alien,  
office  
not be  
that a  
dence,  
given  
reigne  
that th  
tempti  
nions.

It is  
parties  
as it m  
Co. 3.  
We  
the ve  
cessary  
at com  
tate fo



But though leases exceeding the term of 3 years must be in writing, no particular form of words is necessary to constitute a good lease; for a lease for years (as we before observed) being no other than a contract for the possession and profits of land on the one side, and a recompence to be paid on the other, any words that in their import are sufficient to shew such contract, will in law amount to a lease: if therefore I covenant with another that he shall hold premises for such a time, this is a good lease; for there are sufficient words to prove an agreement that the one shall quit, and the other take possession of the land. *Cro. Eliz.* 173. 1 *Co.* 129. 11 *Mod.* 42. 12 *Ibid.* 610. 5 *Term. Rep.* 163. 2 *Anstr.* 418.

In order that a lease may be valid, it is fit too that it be made to one born within the three kingdoms of England, Scotland, or Ireland, or be naturalized therein; for by 32 Hen. 8. c. 16. all leases of any dwelling house or shop made to any stranger, artificer or handicraft-man born abroad, not being a denizen, shall be void. Both the lessor and lessee are also by the same statute subject to a penalty of 5l. This statute, however unjust or impolitic, still remains unrepealed, though, in honour to the courts, it is to be remarked, that it has always been construed with great strictness. 1 *Saund.* 7. 3 *Mod.* 94. 2 *Shaw.* 135.

Made to a subject of the realm.

And it is said by lord Coke, that leases for years to an alien, of lands, meadows, &c. are forfeitable to the king on office found, (i. e. on his being found to be an alien) but not before. *Co. Lit.* 2. b.—It has been held, however, that an alien merchant may take a house for his own residence, but it shall not go to his executors. The reasons given for these laws (besides the general policy that foreigners may not get too much footing in the kingdom) is, that they may be punished for their presumption in attempting to acquire landed property in the king's dominions. 1 *Black. Com.* 372.

It is also requisite that a lease be read by or to the parties, if they require it, otherwise it may be vacated; as it may also, if it be read falsely in order to deceive. 2 *Co.* 3, 11.

Must be read,

We have seen that a lease for life must commence on the very day upon which it is made; but this is not necessary in a lease for years, for as no corporeal possession at common law need be given of this estate, as of an estate for life, it may begin at any future period that shall

As to its commencement and determination.

be agreed upon between the parties. It should be observed, however, that until the commencement of the term, and entry be made by the lessee, no legal possession is vested in him by his lease, but only a *right* of possession; he cannot therefore, before entry, bring an action of trespass. *Co. Lit.* 46. *1 Mod.* 262.

In a lease for years the time when the term is to begin, and when it is to end, must be certain and determinate, or at least such as by reference to something else may be reduced to a certainty, otherwise the lease will be void: therefore a lease for so many years as such a one shall live, would be void; but a lease for so many years as such a one shall name, is good, because though it is at present uncertain how long the estate will continue, yet it will be reduced to a certainty as soon as the term is named. *Noy Max.* p. 86. *Co. Lit.* 45.—And the term must be named during the lives of the lessor and lessee, or it will not be good, *1 Co.* 156. a. for it is essential that there be both lessor and lessee living at the time the lease is made. *3 Bur.* 429.

If no time is mentioned in the lease at which it is to begin, it will commence on the day it bears date; and if the date happen to be omitted, it will commence on the day it is executed. *Co. Lit.* 46. b. and see *Stiles*, 118.

A lease may bear date as far back as the parties choose, but it cannot bear date on a day subsequent to its execution; the reason of which is, that if it might be dated at a future day, it might be made to convey the estate in perpetuity, which is contrary to the statute law.

It is further necessary, in order to the validity of a lease, that it be *signed and sealed* by the parties, or at least by their *agents*, properly authorized. *1 Anstr.* 229.

But though a lease ought properly to be signed by *both* parties, yet it will be good if signed only by the *lessor*, provided the lessee accept of it. But if it be signed by the *lessee* only, it will operate nothing. *Ow.* 100. because nothing can pass by it.

The last thing requisite is, that the lease be *delivered* either by the lessor himself, or by his attorney, in the presence of one or more witnesses; the form of doing which usually is for the party to place his pen upon the seal, after having put his signature to it, and say, "I deliver this as my act and deed;" any words however, importing as much, will be equally good—and it is proper for the preservation of their testimony, though not strictly

Lease must be  
signed and sealed;  
ed;

and delivered.

necess  
randu

It r  
thoug  
ment  
contra  
intent

1 Tern

WH  
liver  
sidered

3. Op

A co  
mise th  
someth  
Plaw.

A p  
upon t  
pends.  
is in th  
nant in  
are eith  
as are e  
the less  
plied, w  
express  
from th  
made b  
for quie  
of the l  
joy the

By c  
stood, f  
parties  
vises o  
those in  
parties

The

the cover  
In les

From

For

necessary, that the witnesses should subscribe a memorandum on the back of the lease, of the due execution.

It may properly be remarked here, that a writing, though not purporting to be a lease, but only an agreement for a *future* lease, will, if it contain words of *present* contract be good as a *lease*, so that it appears to be the intention of the parties that it should. *2 Blac. Rep. 973.*  
*1 Term. Rep. 735—2 ib. 739.*

When the term of a lease is expired, the lessee must deliver up possession to the landlord, or he will still be considered as tenant, and liable to the rent. *1 Esp. Ca. 57.*

### 3. Of Covenants, Provisoes, Clauses, and Agreements in Leases for Years.

A *covenant* in a deed is an agreement, consent, or promise that something is already done, or not done, or that something shall be done, or shall not be done hereafter. *Plow. 308.* Covenant, what.

A *proviso* is a condition inserted in a deed or writing, upon the observance of which the validity of the deed depends. It differs from a covenant in this, that a *proviso* is in the words of and binding upon both parties; a covenant in the words of the covenantor only. Covenants are either express or implied. *Express Covenants* are such as are expressly mentioned in the deed; as a covenant that the lessee shall keep the demised premises in repair: *implied*, where the thing to be done or to be omitted is not expressly provided for in the deed, but inferred by law from the nature of the contract; as, if a lease for years be made by the words *demise* or *grant*, without any covenant for quiet enjoyment, the *law implies* a covenant on the part of the lessor, that he shall permit the lessee quietly to enjoy the thing demised. Proviso, what.

By clauses and agreements in leases is generally understood, such incidental parts of the contract between the parties as are not formally set forth in the *shape* of provisos or covenants—they differ, however, nothing from those in their *effect*, and are binding on one or all of the parties according to their import and tenor.

The person who makes the covenant is in law termed the *covenantor*, and he with whom it is made the *covenantee*.

In leases the necessary and usual covenants are,

*From the landlord—*

For quiet enjoyment;

To save harmless from all persons claiming title;  
For further assurance.

From the tenant—

To pay the rent and taxes; (except land tax)

To keep the premises in repair.

These and a variety of others, with practical observations upon each, will be found, *Appendix*, No. II.

In respect to *express* and *implied* covenants which we have just spoken of, it is material to observe, that the *implied* covenant is in all cases controuled within the limits of the *express* covenant. 4 Co. 80.—which furnishes us with a useful caution not to introduce into leases any more *express* covenants than the case may absolutely require, lest the implied covenants should be thereby rendered ineffectual.

Construction of  
covenants.

It is not necessary in order to constitute a good covenant, that the word "covenant" or that any other particular words should be used—as any thing under the hand and seal of the parties which imports an agreement, will effectually amount to a covenant.

Thus the words "yielding and paying," usually inserted in leases, are held to be sufficient to support an action of covenant for non-payment of rent. 1 Vent. 10. See also Cro. Jac. 399—& 2 Anstr. 418.

And so where the lessee's covenant to repair is followed by "Provided always, and it is agreed, &c. that the lessor shall find timber for such repairs," this makes a covenant on the part of the lessor, to provide such timber—but where no actual *agreement* to do the thing is implied, there will be no covenant, though the words may seem of nearly the same import, as if it had been that the lessee would repair, "Provided, &c. that the lessor finds timber," this would have been no covenant on the part of the lessor, but only a *condition*, on the performance of which, and not sooner, the lessee would be bound to fulfil his covenant to repair. 1 Roll. Abr. 518.

The recital of an agreement in the beginning of a deed, has been held on a similar principle, as being admitted and adopted by both parties, to amount to a covenant—as see 3 Keb. 465. 1 Leon. 122.

Where a covenant is expressly entered into by a party, it will at law be strictly construed, and he will at all events be bound to perform it.

Thus where a tenant covenants to pay rent during the term, he will be bound to pay it, though the premises



should be destroyed by fire or other accident, and not be rebuilt by the lessor. *Dy. 33. a. 3 Bur. 1637. 1 Term. Rep. 310. 710*, and see 6 *ibid.* 488, 650—but quære whether relief would not be given in *Equity*, and see *Amb. 6, 9. 1 Term. Rep. 708. 2 Austr. 555.*

If a lessee unconditionally covenant to pay rent, an action will lie upon the covenant, even though the lessor prevent his enjoying the premises; 2 *Stru. 763*, because, when a man charges himself by his own express contract, he is bound to abide by it if practicable, notwithstanding the default of others, and see 6 *Term. Rep. 650.*

And so if he covenant to repair, and the house, &c. be consumed by lightning or the king's enemies, he is still liable. *Dy. 33. 2. Show. 401.*

It may be useful to insert here an observation or two relative to accidental fire, as far as concerns landlords and tenants. The 6 *Ann. c. 31.* at first only temporary but now perpetual, enacts, that no action shall lie against *any person* in whose house any fire shall accidentally begin—with a proviso, however, that the act shall not affect any agreement between landlord and tenant. A tenant therefore will not be liable, unless by *special agreement*; and it has with some reason been doubted whether a covenant to repair *generally* will amount to such an agreement, and extend to the case of fire; on this account, if it is not intended that the tenant shall be answerable for damages by fire, it is proper and usual in leases to make an exception as to accidental fire in the covenant to repair.

It is a rule in law, that where there is any doubt as to the true construction of a covenant, it shall be taken most strongly against the covenantor. Construction of covenants.

Therefore, where a tenant covenanted, that his landlord should have all the grains made in his brewery, and abided by his covenant, but put hops in the grains, so that cattle would not eat them, the covenant was held to be broken. *Raym. 464.*

And so where a man covenanted to leave at the end of the term, all timber trees then growing thereon, and left them *cut down*, it will be a breach of the covenant. *Esp. 271.*

A covenant extends only to such things as are in being at the time of the agreement: therefore, where a tenant covenanted to pay "all taxes," this binds him to the payment of such taxes only, as were in being when the lease

## Land tax.

was made, and not to taxes or charges afterwards imposed. 1 *Vent.* 223. 2 *Lev.* 68.

And where it is covenanted in a lease, that the tenant shall pay all taxes *except land tax*, it has been held that this exception extends only to the tax payable at the time of the demise, and not to the additional land-tax, which may be occasioned by an improvement of the estate. 3 *Term Rep.* 377.

And in a case where a lessee for 21 years, having covenanted to repair and to pay all taxes and *impositions*, assigned his term for a small consideration, it was adjudged that he was not liable to pay the expence of a party-wall, either by the covenant, or by stat. 14. *Geo.* 2. c. 48. but that it must be borne by the original landlord. 3. *Term Rep.* 458.

## Quiet enjoyment.

The covenant for quiet enjoyment is held to extend only to the lessor, and those claiming under him, and not to the eviction or disturbance of a stranger, even though the words of it may be sufficiently extensive to include all persons whatever. *Cro. Eliz.* 213. 3 *Term Rep.* 584. —and see 6 *ibid.* 488.

But the act of a servant done by the master's command, will be a breach under such a covenant, because the act of the servant is deemed the act of his master. 1 *Leon.* 157.

And though the covenant usually runs "for enjoyment, notwithstanding the *lawful* hindrance of the party," yet any disturbance however tortuous, seems to be within the covenant. 1 *Term Rep.* 671.

## Covenant against assignment.

Covenants restraining a lessee from assigning his term, were thought by *Thurlow*, Chan. 3 *Bro. Ch. Ca.* 632, to be unreasonable, and therefore not compulsive, but it has since been determined otherwise. *Esp. Ca.* 8.

A covenant that a lessee shall not *assign* or set over the lease or the premises demised without licence, does not extend to an *under lease*, that not being in any case considered as an assignment. 2 *Black. Rep.* 766. *Doug.* 56. 181. 3 *Wils.* 234.

But if the words are, that he shall not set, *let*, or assign, the covenant will extend to an under lease, which, though not an assignment, is a *letting* of the premises. 2 *Term Rep.* 366.

But an assignment by act of *law* as a bankruptcy, is no breach of the covenant not to assign. 3 *Wils.* 236.

And after licence to let or assign is obtained, the as-



fignee is not bound by the covenant, but may let or assign at pleasure. 4 Co. 119.

A covenant to repair and deliver up the demised premises at the end of the term, extends to erections made during the demise, as well as those in being at the time of the contract made. 3 Lev. 264.

Covenant to repair.

And where the lessor covenants to repair, and neglects to do it, it seems that the lessee may repair, and deduct the expences out of the rent. Co. Lit. 54. 1 Ld. Raym. 420. 2 Anstr. 575. Holt. C. J. however expressed some doubts as to this—see 1 Leon. 237.

The usual words of a covenant for further assurance are, that the lessor should make such as counsel shall advise, in which case it has been determined, that he is not bound to attend to any requisition of the party himself, 5 Co. 19. a. And this advice of counsel is to be given not to the lessor but to the lessee, who is to communicate it to the lessor. Cro. Eliz. 9—and the lessor is to have reasonable time allowed him to make such assurance after notice given him. 1 Roll. Abr. 441.

Further assurance.

Though a tenant covenants to pay the reserved rent “without any deduction or abatement whatsoever,” it has been determined, that the tenant may nevertheless deduct and retain the land tax out of his rent, if such tax is to be paid by the landlord. Esp. 278.

Taxes.

In a covenant to use land in an husband-like manner, the tenant is (per Buller Just.) “to use on the land all the manure made there, except that when his time is out he may carry away such corn and straw as he may not have used, and is not obliged to bring back the manure produced by it.” Esp. 279.

Other cases which have recently been determined relative to the law of covenants in leases are, that where there was a lease for 61 years, and a covenant that the lessor would at any time, within one year after the expiration of the first 20 years, grant a further term of 61 years, to commence from the determination of the term of 61 years first granted, and so in like manner at the end of every 20 years during the said term; it was held that the lessee could not claim the additional term of 61 years at the expiration of the last 20 years of the term, if he had neglected to claim it before. 1 Term Rep. 229. Note, this case turned on the particular wording of the covenant, and the apparent intention of the parties.

Further term.

A covenant in a lease for lives, to renew on the death

Renewal.

of every life, under the same rent and covenants, shall be taken to be a perpetual covenant of renewal. *Cowp.* 819.

It was however observed by the court, that this was a hard case for the lessor; but as there had been four successive renewals, he was conceived to have put his own construction upon the covenant.

"Usual covenants."

Where a tenant for life had a power to grant leases for years of his estate, so that such leases contained only the usual covenants, and he made a lease thereof, with a proviso, that if the premises should be destroyed by tempest or fire, the lessor should rebuild, and on failure the rent should cease: the lease was held to be void on the jury's finding that such proviso was *unusual*. 1 *Term Rep.* 705.

And a lease of tythes under a power to grant leases of all or any part of the premises, reserving the usual rent, was held to be void, because the tythes had not been usually letten, and consequently no usual rent could be reserved. 3 *Term Rep.* 366.

A covenant to pay rent at a certain quarter-day, or within so many days after, is held not to be broken till the expiration of the extra days, the "or" giving the tenant an option. 2 *Show.* 77.

Merger.

Where a person having the reversion of a term for years accepts a release, by which the reversion is merged, the covenants incident to it will merge likewise. 3 *Term Rep.* 393.

It was doubted whether a condition of re-entry by the lessor, in case the lessee became a bankrupt, was valid, but held that it was. 2 *Term Rep.* 133.

Breach of covenant.

When a covenant is merely negative and passive, some act must be done to constitute a breach; therefore, where A covenanted to permit B to sow clover amongst barley, to be sown by him (A), and A sowed in the last year without giving notice to B, it was held to be no breach. *Doug.* 125.

Actions of covenant for non-payment of rent, must be brought where the lands lie, and not where the rent is payable. 1 *Salk.* 80. 1 *Show.* 191—But in actions of debt it is otherwise—see more as to the construction of covenants. 2 *H. Blac. Rep.* 389—6 *Term Rep.* 16—*ib.* 458, 488.

As to such covenants in a lease as run with the land, and bind assignees, and such as do not, see title ASSIGNMENT, p. 25.

4. *Concerning the Interest a Lessee for Years has in the Premises demised to him; and other miscellaneous Incidents to an Estate for Years.*

Besides the interest expressly given to a tenant by his lease, a tenant for years has the same right to estovers, or botes, as we before observed that a tenant for life was entitled to, viz. wood for repairs and firing; for making instruments of husbandry; and for heaving and fencing: these are incident to and inseparable from his estate, and may be taken without any assignment or consent of the lessor, unless by express agreement to the contrary. *Co. Lit.* 45.

Lessee for years has a right to estovers.

A tenant for life, we have seen, may carry away, after the expiration of his term by the death or default of the lessor, the emblements, or growing profits of the land; and this, we remarked, was for the encouragement of husbandry, and because it would be unjust that one person should be injured by another's default: but it is otherwise with regard to a tenant for a *certain* term of years; for as to him the reason does not apply; if therefore a person hold from Midsummer for 10 years, and sow a crop of corn, which is not cut at the expiration of his term, he cannot afterwards return to cut it; *Lit.* 568, for knowing the time when his interest in the premises determined, it was his own fault to sow corn which he knew he could not reap: it is therefore proper, when this is likely to happen, to insert a clause in the lease empowering the lessee to enter upon the land to cut and carry away the produce which may be growing upon the land when his term expires.

But not to emblements.

But where the determination of an estate for years depends upon an uncertainty, as when the lessor is only tenant for life, then the estate not being to determine at a time *certain*, as in the last case, but by the act of God, the tenant for years or his executors shall have the emblements, in the same manner as a tenant for life or his executors would, unless indeed the estate be determined by the tenant's own default, as by forfeiture, &c. when they shall go to the landlord as before. *Co. Lit.* 56. 1 *Term Rep.* G. B. 5. 2 *Black. Com.* 144.

Unless in particular cases.

And by the particular custom of some places, the same privilege in regard to emblements is allowed to lessees for years, as to those at will. And in this case he is in general allowed barn-room for his wey-going crop till a given period. *Doug.* 190.

Tenant has only  
a special interest  
in timber.

A tenant for years or otherwise, has only a special or partial interest in trees growing upon the land demised to him; this interest consists in the shade they afford his cattle; the fruit they produce; and the loppings for repairs, firing, &c.: if, therefore, they are blown down, or otherwise severed from the soil, they become the property of the landlord as part of the inheritance. 4 Co. 62. a. *Noy. Max.* p. 88.

Cannot remove  
fixtures.

This liberty however, it is said, does not extend to copyholds, unless by special custom. *Cro. Eliz.* 5—but see *contra*, 13 Co. 68, and post *Tit. Copyholds*.

It is a general rule in law, that whatever is fixed to the soil, so as to become, as it were, a part thereof, cannot be removed, and will at the expiration of the lease belong to the lessor: but it has been held, that a tenant may remove what he has affixed for the convenience of his business, as counters, shelves, &c.; and also chimney-pieces and wainscot put up by himself; provided, however, he do it during the continuance of his term, for if he let them remain till his term is ended, he cannot remove them without committing trespass. 1 *H. Black. Rep.* 258.—Other things may also be removed by the special custom of particular places. *Bul. Ni. Pri.* 34.

Exceptions in  
lease.

Notwithstanding an exception in a lease of certain closes, or rooms, which the lessee is not to use, he may pass and repass through them, if they are so situated as that he cannot otherwise have the complete enjoyment of the lands or premises demised to him. 11 Co. 52. a.

Estate not de-  
termined by loss  
of the deed.

The estate of a lessee is not determined by the loss of the lease, so that the existence of the term can be proved; for the estate is derived from the lessor, and not from the lease, otherwise than as the lease shews the intention of the parties, which is not altered by the loss of the deed. 3 *Term Rep.* 151.

Privilege of  
lessor.

A lessor may enter upon the premises of his lessee to see the state of the repairs, though there be no covenant for that purpose, such liberty being allowed by law for the general benefit of the lessor's estate. *Co. Lit.* 54.

But he cannot enter upon them in order to fell timber, work mines, or the like, without an express covenant allowing him to do so, for particular advantages belonging to some lessors only, and not to all, must be provided for by particular agreement. *Co. Lit.* 54.

A lease was granted of premises described to be late in the occupation of A, part of these was a yard; and it was



a question, whether, agreeably to the rule of law, that a grant of land extends to all that is immediately above or beneath it, passed a cellar under the yard in the occupation of another person; and it was held not, because contrary to the intention of the parties, and to justice. 1 *Term. Rep.* 701.

If a lease be granted of a house "and the appurtenances," the outhouses, orchard, garden, and yard will pass, but not other land. *Plow.* 70. Appurtenances.

A lease from year to year, during the pleasure of the parties, will, after entry, be a lease, and subsist until half a year's notice to quit be given by one of the parties: and if the tenant die intestate, his administrator will have the same interest in the premises as he had. 3 *Term Rep.* 13. Continuance of lease.

And a lease for *one* year, and so from *year to year* as long as both parties shall agree, is held to be good for *two* years certain, and that afterwards the premises are held at will. *Co. Lit.* 45. b.

And where a lease was made for 3, 6, or 9 years, at the option of either party, it was considered as a lease for 9 years determinable on notice. 3 *Term Rep.* 377.

Also if a lease be made for 21 years, with a covenant from the lessor that the lessee shall have the same for 21 years more after the expiration of the said term, and so from 21 years to 21 years, until ninety-nine years from thence next ensuing shall be completed: the ninety-nine years are to be computed from the end of the first 21 years. 2 *Show.* 31.

5. *The means by which an Estate for Years may be parted with, or determined.*

An estate for years or for life may be parted with or destroyed, How lease may be determined

By Assignment;  
By Surrender; or  
By Forfeiture,

*And first of an Assignment.*

An assignment is the transfer or making over to another of that right or interest which a person may have in lands or tenements: it is in its nature applicable to *any* estate, but is usually applied to an estate for life or years. 2 *Black. Com.* 326. 1. By assignment.



The parties to an assignment are the *assignor* and the *assignee*; the assignor is he that assigns, and the assignee he to whom the assignment is made.

What necessary  
to make a good  
assignment.

In order to constitute an effectual assignment, the *whole* term of the assignor must be made over, for if a part only of it be transferred, it is not properly an assignment but an *under-lease*, the difference of which is, that in an *assignment* the assignee stands in the shoes of the assignor, and is, generally speaking, answerable for all the covenants which he was bound to perform; whereas an *under-lessee* is tenant to his immediate lessor only, and has nothing to do with the terms of the original lease. 1 *Mod.* 268. 2 *Anstr.* 413.

And if the term made over be but for a day less than the whole term, it will not amount to an assignment. *Doug.* 174, on the contrary, if the whole term be made over, it will be construed to be an assignment, though the rent, and a power of re-entry, be reserved to the *lessee*, and though new covenants be introduced in the assignment. *Ibid.* 185.

Must be in writ-  
ing.

An assignment must, like a lease, be put into writing: this was not necessary at common law, but by the statute of frauds, 29 *Car.* 2. c. 3. it is provided that no leases, estates, or interests, &c. shall be *assigned*, granted or surrendered, unless it be by deed, or note in *writing* signed by the party assigning, &c. or his agent, or by operation of law.

But no particular form of words is necessary to make it valid, so that it clearly expresses the intention of the parties, and under the words "note in writing," mentioned in the stat. it seems that an assignment may be made by a mere memorandum, signed by the party, without being either stamped, or sealed or delivered. 1 *Wils.* 27. but *quære*, and see *post*.

No considera-  
tion necessary.

Nor need any consideration be expressed in an assignment, for the assignee's being subject to the payment of the rent reserved in the lease is held to be a sufficient consideration. *Noy Max.* p. 92.

If defective,  
shall be an *un-  
derlease*.

And as deeds are construed most strongly against the maker, it has been held, that if from any defect in an assignment, it cannot be good *as such*; it shall, against the party assigning, be good as an *under-lease*. 1 *Doug.* 188.

Covenants of  
*lessee* binding  
*assignee*.

As we have said that assignees are in *general* liable to perform the covenants of the *lessee*, it will be proper to enquire more *particularly* in what cases this rule holds, and in what it does not. The general rule is, that an assignee

will be liable for the breach of all such covenants as, in the legal phrase, *run with the land*, but not for such as are *collateral* to it. We must consider therefore, what covenants *do* and what *do not* run with the land, and bind the assignee.

Those covenants are held to run with the land which extend and relate to things in being at the time of the demise, in such a direct and substantive manner, as to be considered as a part of the grant, as covenants to repair, to pay rent, &c. such covenants being inherent, as it were, to the land, go along with it, and bind the assignee, and that though he be *not named in the deed*; thus covenants that the grantor is *seized in fee*; has a *right to convey*; for *quiet enjoyment*; and *further assurance*, also run with the land, because they concern the *title* of the thing granted or demised; but when a covenant relates to something not in being at the time of the demise, or something merely personal, or *collateral* to the thing demised; as to pay a sum of money in gross or the like, it does not run with the land, and assignees are therefore not bound, even though *they be expressly named*. 5 Co. 16. b. *Noy Max. c. 41.* and see 1 *Show. 199.*

What covenants run with the land, and what not.

Yet if the covenant regard something to be done *upon* the land, and the *assignee* be named, though it were *not* in being at the time of the demise, and be in some measure collateral, as to build a new house upon the land, &c. it shall bind the assignee, because he will receive the benefit of it. 5 Co. 16. b.

Thus where lessee for years covenants duly to pay the rent, to keep the premises demised to him in tenantable repair during his term, not to commit waste, &c. and then assigns, the assignee, and all claiming under him, shall be bound, because these things concern and are appurtenant to the thing demised, and therefore run with the land. *Cro. Eliz. 457. Hob. 188. and 1 Anstr. 96,* which respects the *mortgagee* of premises,—see also 2 *ib. 413.*

And where there was a covenant to use the land in an husbandlike manner, and leave in like condition, it was held to be such a covenant as ran with the land, and the executor of the landlord was permitted to sue upon it. *Esp. Ni. Pri. 295.*

And so in other cases where the covenant is for the benefit of the estate demised, it will extend to the assignee, though not named. Thus a covenant that a lessee should reside on the demised premises during the term, was held

to extend to his assignee, though not named in the covenant. 2 *H. Black. Rep.* 133, and see *Cro. Jac.* 125. 5 *Co.* 24.

But in order to make an assignee liable, he must be properly an assignee, having the *whole* of the lessee's term, and not an under lease only of *part of the term*. *Doug.* 174.

But where lessee of premises covenanted for himself and his assigns to pay 40s. a year to the church-wardens of the parish for certain purposes, his assignee was not bound to pay it, it being a mere personal contract of the covenantor's, and irrelevant to the thing demised. *Cro. Jac.* 438.

Nor was a covenant in a lease for payment of rent, and doing of repairs, entered into by a lessee with a mortgagor, his executors, administrators and assigns, held to run with the land so as to enable the assignee of the mortgagee to maintain an action for the breach of them, though the mortgagor joined in the lease. 3 *Term Rep.* 393. 678.

Assignee not  
liable for cove-  
nants broken  
before assign-  
ment.

An assignee is not bound by a covenant entered into by the assignor, and broken *before* the assignment; as where lessee covenanted for himself and his assigns to rebuild a house before such a time, but neglected to do it and assigned his term, it was adjudged that the assignee was not bound to rebuild. 3 *Bur.* 1271. 1 *Black. Rep.* 351.

Nor after he  
has assigned  
over.

Nor is an assignee liable for the breach of any covenant after he has assigned over his term. 1 *Frem.* 356. *Noy Max.* 91, because the privity of estate is gone. Therefore an action of covenant will not lie against an assignee for rent due after his assignment over to another, although made without notice to the lessor. 1 *Shaw.* 340. *Cro. Jac.* 309.

But the lessor may have an action of debt against a lessee for rent in arrear after assignment, because the privity of contract still remains. 3 *C.* 22.

But if the lessor accept the assignee for his tenant, the lessee will be discharged of debt, this destroying the privity; but covenant will still lie—*Note*, receiving rent from him is held to be a sufficient acceptance. *Cro. Jac.* 334. *Cr. Car.* 188. The assignee is however bound for the rent only while he continues in possession, for if he assign, the privity of estate is gone, and the lessor has no further lien upon him. *Salk.* 81. 2 *Str.* 1221. *Shaw.* 340. Nor are the executors or administrators of a lessee

## LANDLORD and TENANT.

27

chargeable for rent after they have assigned the term. *Cro. Eliz.* 715. 3 *Co.* 24. a.

But if there be a covenant which runs with the land, the executor or administrator of an assignee, will be liable—such covenants binding those who come in by act of law, as well as those by the act of the parties. 5 *Co.* 17. b. 4 *Term Rep.* 75.

And where an *express* covenant is entered into by the lessee, he is not discharged by an assignment, the privity of contract remaining, though the privity of estate is gone. *Cro. Jac.* 309. *Cro. Car.* 418. 3 *Wils.* 25.

And so when lessee became a bankrupt, and his estate transferred to assignees, he was held to be still liable on his covenant for rent, the assignees not being liable till they have taken possession. 4 *Term Rep.* 94. 1 *Esq. Ca.* 233. *Peake's Ca.* 239, and see 2 *H. Blac. Rep.* 319.

These cases, however, do not extend to implied covenants or covenants in law. *Cro. Car.* 188.

The assignee of an assignee, and of executors and administrators, as also the executors or administrators of an assignee, or of a lessee, are all comprehended under the word “assigns,” and therefore bound when they are bound. 5 *Cro.* 17. b. 1 *Salk.* 309. 1 *Show.* 348.

Assignees of  
assignees, &c.  
liable.

But an *under-lessee* is not included in the word assigns, and therefore not bound by the covenants entered into by the original lessee. *Doug.* 184. 2 *Anstr.* 413.

And where lessee covenanted that he, his executors, or administrators, would not assign, and became a bankrupt, it was held that the assignees under the commission would not be bound, provided they made a *fair* assignment. *Ambler* 480.

In an absolute indefeasible assignment, the assignee is liable even before he take possession. *Doug.* 461. The rent, &c. being due by the contract, and not by the deed.

But a mortgagee is not, though the mortgage be forfeited, until he take actual possession; for only *substantial* assignees in the actual or potential enjoyment of the estate are liable to actions in respect of their estate; whereas a mortgagee is but a *nominal* assignee as it were, with a naked right. *Doug.* 455, and see 1 *Anstr.* 96.

But not a mort-  
gagee.

If a lessee grant or assign part of his estate, yet the entire privity of action remains for the whole rent against the first lessee. But an assignee of a part of the estate, is not liable for the rent of the whole. *Doug.* 186.

Where there was an exception in a lease, of an entry



and liberty to wash in the kitchen, and a passage for that purpose, it was held, that an action would lie against an assignee for hindering the lessee. *1 Show. 388.* and so of other similar cases. *Salk. 196.*

Lessor need not accept assignee.

If a lessee assign over his term, the lessor is not obliged to accept the assignee for his tenant, but may still resort to his lessee; if, however, he receive rent of the assignee, knowing of the assignment, he has determined his election, and shall not afterwards have an action of debt against the lessee for rent due after the assignment; though it has been held that he may nevertheless maintain an action on the lessee's covenant, that being a personal engagement, which is not waived by the assignment. *Noy Max. 91.*

Proper covenant in an assignment.

In an assignment of a lease, it will be proper to insert the following covenants.

*From the assignor—*

That the indenture of lease is good in law.

That the assignor has power to assign.

To save the assignee from former rents, grants, and incumbrances.

For the delivery of deeds and evidences;

That the assignee shall quietly enjoy.

*From the assignee—*

That he will pay the rent;

That he will perform the covenants in the lease, or save the assignor therefrom.

*The forms of these different covenants may be seen, Appendix, No. III.*

The second mode by which an estate for life or years may be destroyed, we have said is by surrender; which we shall now consider.

### Of a Surrender.

2.  
By surrender.

A surrender is the yielding up of an estate for life or years to him who has the immediate remainder or reversion, wherein the estate for life or years may drown by mutual agreement of the parties. *Co. Lit. 337. b.* an estate at will or sufferance cannot therefore be surrendered. *Co. Eliz. 156.*

Surrender may be by deed or in law.

A surrender may be effected either by an express agreement between the parties for that purpose, or by implication of law.



An *express* surrender must be in writing; for by the statute of frauds and perjuries it is provided, that no leases, estates, or interests, either of freehold, or terms for years, shall be surrendered, unless by deed or note in writing, or by operation of law; but no particular form of words is necessary to make a surrender; for as a lease is only a contract between the lessor and lessee, any words which are sufficient to shew the intention of the parties to dissolve that contract, will work a surrender. *Cro. Jac.* 169. and see ante, p. 13.

What necessary to make a good surrender by deed.

And in *Farmer on demise of Earl v. Rogers*, 1 *Will.* 2d part 27, the Court said that the words *release and discharge* were much stronger than those which would amount to a surrender.

Two things however are material in a surrender by deed, viz. 1. That the person surrendering be in possession of the thing surrendered. 2. That the person to whom the surrender is made have a greater estate in the premises than the surrenderor, in which the estate surrendered may merge and be lost. *Co. Lit.* 337.

Surrenderor must be in possession; and have the less estate.

So that if a lease be made to commence at Michaelmas *next*, it cannot before Michaelmas be surrendered by deed, because the lessee is not in possession of the thing demised. *Co. Lit.* 338. *Noy Max.* p. 95. Nor can he who has a lease for 20 years surrender to him who has a lease for 10 only, because the surrenderee must have the greater estate wherein the less may drown. *Co. Lit.* 218.

But where there was a lease for 20 years, and the lessor granted the reversion to another for one year, it was held that a surrender to the reversioner was good, and was the same thing as surrendering to the lessor himself. *Cro. Eliz.* 302. pl. 1.

And the reversion of the surrenderee must be an *immediate* reversion, so that if a lessee for 30 years lease to *B.* for 10, *B.* cannot surrender to the first lessee. *Flow. Com.* 541.

Surrenderee's reversion must be immediate.

But by a surrender in law, it is not necessary that the surrenderor be in actual possession, for if a lease be to commence at Michaelmas *next*, and the lessee take a new lease *before* Michaelmas, this is a surrender in law of the former lease, because by accepting a new lease he admits the lessor to have a power of making such, which he could not do if the first lease were to continue. 5 *Co.* 4.

What requisite to a surrender in law.

But this new lease must be a demise of something of the same nature as that which was leased by the old one, or

it will not work a surrender, for there is otherwise no inconsistency in their standing together. *Cro. Eliz.* 873. *Mor.* 636. And it must be a *viva* lease, and such an one as the lessee can enjoy, or it will not be a surrender of the first. 4 *Bur.* 2213.

So if a lessee for 20 years take a new lease for 10 years to commence at a future day, it is an *immediate* surrender of the 20 years lease, and the lessor may enter *presently*. *Cro. Eliz.* 522.

Or if a lessee for *life* accept of a lease for *years*, it will be a surrender of the life estate. *Perk.* 68.

A present life estate may be surrendered to him who has the reversion for life; as an estate for a man's own life is in judgment of law a greater estate than for the life of another. *Co. Lit.* 338.

Where lessee agreed that lessor should have the premises as mentioned in the lease, and should annually pay a consideration besides the rent, it was held that this operated as a surrender of the lease, and that the sum to be paid above the rent was to be considered as a sum in gross, and not as *rent*. 3 *Term Rep.* 441. and where a tenant makes a surrender of his estate to his lessor, all rent due up to the time of the surrender is extinguished, unless it be previously granted away by the lessor to a third person, in which case it shall be paid, because the law will not suffer an innocent person to be injured by another's act. 8 *Co.* 145.

New lease on  
renewal good  
without surren-  
der of under-  
lease.

Formerly the renewal of leases for life or years was a surrender of all under-leases, and therefore could not be granted without the consent of the under-tenants; to remedy which inconvenience, it was enacted by 4 *Geo. 2. c. 28. § 6.* that if any lease for life or years, where there are under-tenants by lease, shall be surrendered in order to a renewal, the new lease shall be valid without a surrender of the under-leases, and that the lessees, by virtue of such new lease, shall be entitled to the rents of the under-tenants, and the same mode of recovery thereof as if the original lease had been kept on foot.

As to the surrender of *copyhold* estates, see Chap V.

The last method that we think it necessary to mention, by which estates for life or years may be destroyed, is by *forfeiture*.

### Of Forfeiture.

By forfeiture.

Forfeiture is a punishment annexed by law to some illegal act or negligence in the owner of lands, tenements,

or her  
in.

An  
only  
or lea  
genera  
insistent  
tions  
aliena  
ment  
As  
amoun

1.  
or year  
is enti  
is enti  
for his  
(who  
if ten  
the pr  
maind  
pardy  
theref  
" tho  
" fo r  
" it"  
nexed

" atte  
" has  
It is  
work  
deeds  
sioner  
made  
for a l  
will b  
3 *M*

And  
king,  
to the  
condit  
" com

So,  
which  
estate,

or hereditaments, whereby he loses all his interest therein. 2 *Black. Com.* 267.

An estate for years or otherwise may be forfeited not only by the commission of those acts which by the grant or lease are expressly forbidden on pain of forfeiture, but generally by any act done by the tenant, which is inconsistent with the nature of his estate, or the implied conditions on which it is holden; these are principally, 1. By alienation contrary to law. 2. By waste. 3. By non-payment of rent. Of these we shall treat in order.

How an estate may be forfeited.

As to what acts by the landlord or reversioner, will amount to a waiver of the forfeiture, see *post*.

1. *By alienation contrary to law.* When a tenant for life or years grants a greater estate to another than by law he is entitled to grant, so as to divest the estate of him who is entitled to the reversion, it is a forfeiture, as, if a tenant for his own life grant his estate during the life of another, (who may live longer than himself), or in fee, or tail; or if tenant for years grant for a longer term than he has in the premises, he forfeits his estate to him who has the remainder or reversion, whose estate is thereby put in jeopardy, and in danger of being defeated: it is but just, therefore, as Sir W. Blackstone observes, "that the estate should be forfeited, and taken from him who has shewn so manifest an inclination to make an improper use of it." There is, moreover, an implied condition annexed by law to every man's estate, "that he shall not attempt to create a greater interest than he himself has." *Co. Lit.* 251. *Noy Max. c.* 10.

1. By alienation contrary to law.

It is to be observed however, that such an attempt will work a forfeiture, only when it is made by those species of deeds which are held to divest the possession of the reversioner, as a *feoffment*, *fine* or *recover*—if therefore the grant be made by lease only, or lease and release, &c. though made for a longer term than the tenant has in the premises, it will be good for so many years as he really has in them. 3 *Mod.* 151. 2 *Term. Rep.* 171.

And if tenant for life or years commit felony, the king, or other lord of the fee, is immediately intitled to their estates by forfeiture, for the law annexes another condition also to every man's estate, "that he shall not commit felony." *Co. Lit.* 215.

So, likewise, if a tenant do any act in a court of record which amounts to an express or virtual disclaimer of his estate, as, if he make claim of a larger interest than was

granted to him, or if by accepting a fine, or attorning tenant to a stranger, he affirm the reversion to be in a stranger, and not in his lord, or the like, it will, for reasons similar to the above, amount to a forfeiture of his estate. *Co. Lit.* 252.

We have seen that alienation to a foreigner (not being a merchant) is a forfeiture to the king—the reason of which is founded on the general policy of guarding against an over-run of foreigners. *Ibid.* 2. b. 2 *Show.* 135. But if such tenants have, before the forfeiture, granted a legal estate of their interest to a third person, (as, if tenant for 30 years make a lease for 10) that estate shall be good; for the law will not injure an innocent grantee on account of mal-feasance of his grantor, nor permit the grantor by his own act to invalidate a contract which he himself has entered into. *Co. Lit.* 233.

*As to forfeiture of copyhold estates, see post. Chap. V.*

*In what cases acceptance of rent after forfeiture will be a waiver, and in what not, see post. Chap. VIII. § 5.*

An estate may be forfeited

2.  
By waste.

2. *By Waste.*—An estate for years, life, &c. may be forfeited also by committing waste.

And by stat. Glouc. 6 Ed. 1. c. 3. a tenant committing waste shall forfeit not only the thing wasted, but also treble damages.

Waste is defined to be a spoil or destruction in houses, gardens, trees, or other corporeal hereditaments, to the injury of him that has the remainder or reversion in fee-simple, or fee-tail; whatever therefore does a lasting damage to the freehold or inheritance, is waste, whether it be done by the voluntary act of the party, as by pulling down houses, &c. or be permitted only, as by suffering buildings to decay for want of necessary repairs. *Co. Lit.* 53.

Removing  
things affixed to  
the freehold.

Therefore tearing up floors, wainscots, benches, doors, windows, walls, and whatever else is so fixed to the freehold as to become a part of it, is waste. 4 *Rep.* 64. *Noy Max. c.* 14.

This rule is however not so strict as it formerly was, and it has been held, that a tenant may during his term, remove chimney-pieces and wainscot put up by himself—as also fixtures put up for the benefit of trade, as counters, shelves, brewing vessels, cyder mills, &c. 1 *Atk.* 477. 1 *H. Blac. Rep.* 258. *Bull. Ni. Pri.* 34.



To diminish the number of fish in a pond, pigeons in a dove-house, rabbits in a warren, or the like, so as to reduce them below the stock necessary to be kept up for the purpose of breeding, is likewise waste. *Co. Lit.* 53.

As also to cut down or lop timber trees, or trees likely to become timber, or otherwise to hinder the growth, or to pull up filberd trees, or willows, is waste, as lessening the value of the inheritance. But to cut down dead trees, though of the growth of timber, is no waste. *Co. Lit.* 53. *Noy Max.* 4. Oak, ash, and elm are reckoned timber in all places; and in particular counties such other trees as are used for building are on that account deemed such. *Noy Max.* 14. 4 *Rep.* 62.

Trees planted on a common by the lord, cannot be cut down by a commoner: though they be not timber, and though they may reduce the commonage, his proper mode being, if he is injured, an appeal to the laws by action. 6 *Term Rep.* 483.

But a tenant may, (as we have before observed) cut underwood at proper seasons in the year, and take sufficient wood for repairs, implements of husbandry, and firing, without committing waste, unless he is restrained from doing so by the terms of his lease.

To convert one species of land into another is waste, as to plough up and turn into tillage grounds which have usually been pasture, or on the contrary to lay down and turn into pasture land which was before arable; for this is altering the description of the estate, and making it vary from the title deeds, by which means the lord is in danger of losing his inheritance; and for the same reason it is waste to convert one species of building into another, even though it be improved in value. *Hob.* 296. 1 *Lea.* 309.

Converting one species of land into another.

It is waste to open coal-pits, mines, &c. because it is depreciating the value of the inheritance.

To open coal-pits, &c.

But if they were open at the time the premises were demised to him, he may continue to work them for his own use, as they are then become a part of the annual produce of the land. *Hob.* 295. *Noy Max.* 87.

3. By non-payment of rent—for by 11 *Geo.* 2. c. 19. "If tenant at rack-rent, or where the rent reserved is at least three-fourths of the yearly value, shall be one year's rent in arrears, and shall desert the demised premises, leaving the same uncultivated, or unoccupied, so that no sufficient distress can be had, two justices of the peace (after

3. By non-payment of rent.



notice affixed to the premises 14 days before), may give the landlord possession, and the lease shall be void." 5 Co. 12. 2 Mod. 193.—and see title *Ejectment*, Chap. VIII.

## Observation.

We shall now proceed to make some observations on the useful head of *Agreements*; which, to have been strictly methodical, should, perhaps, have preceded some of the former divisions; but we found it impossible to introduce it earlier, without too much disconnecting the parts of the subjects we were treating of.—Therefore,

## 6. Of Agreements relative to the Demise of Premises.

## Nature of an agreement.

An *agreement*, in the ordinary legal acceptation of the word, imports a memorandum or minute, containing the consent of one person to part with, and of another to receive, some right, property, or advantage; and it is frequently made preparatory to a more formal contract.

## Its requisites.

It is evident that the first requisite to a valid contract is, that there be a person capable in law of entering into an agreement—an object, about which an agreement may be lawfully made—and a person free from the disability of accepting or agreeing to such object.

As to the legality of the contract (as referable to our present subject) it has been held that no action can be maintained on an agreement for premises let to a lady of easy virtue, for the avowed purpose of prostitution, the tendency of such an agreement being subversive of morality. 1 Esp. Ca. 13.

## Who are capable of agreement.

An agreement being an act of the mind, it follows that none but those capable of exercising the faculty of thinking can bind themselves by any contract; consequently a person of deranged understanding cannot enter into an agreement. 1 Bac. Abr. 67.

Upon the same principle infants (*viz.* persons under the age of 21 years) are incapable of binding themselves to any agreement to their disadvantage; persons under that age being supposed to want sufficient discretion to act with proper judgment, and are therefore under the protection of the law. *Ibid.*

But an agreement entered into by an infant to accept a lease for years will make him liable to an action for the rent, even during his under-age, provided he take possession accordingly, and the rent reserved be reasonable; for it will be intended to be for his benefit. 2 *Bull.* 69.

So where it appeared to be for the good of the infant, the Court of Chancery has decreed the allowance of building-leases made for a term of 60 years. 2 *Vern.* 224.

*Note*—See further as to persons incapable of entering into agreements respecting land, *ante*, p. 10. where the observations made on the subject of *leases*, are equally applicable to that of *agreements*.

Agreements ought to be perfect, full, and complete, so as to shew with precision what is meant to be stipulated, and the mutual consent of the parties thereto, that an action may be maintained upon them if necessary.

How agreements are to be made; should be explicit;

It should also provide for the possibility of a failure in either of the parties, which is usually done by annexing a penalty for non-performance; and it is adviseable to stipulate expressly, that the party failing in performance shall reimburse the other party all expences which he shall be put to on that account.

should provide for failure;

By the statute of frauds, 29 *Car.* 2. c. 3. (see *ante*, p. 12.) all agreements respecting land, except for leases not exceeding 3 years, must be in writing and signed by the parties.

and be in writing.

A *parol* agreement therefore to demise lands for any term of years, will create an estate at *will* only. 4 *Term Rep.* 680—but though such an agreement is void as to the duration of the demise, it will be good in respect of other matters not affected by the statute, as the reservation of rent, &c. 5 *Ibid.* 472.

Both parties ought properly to execute the agreement; though if it be executed by one of them only it will be valid, provided the other party is so circumstanced as that there may be a mutual remedy. 1 *Eq. Ca. Ab.* 21.

And on this principle the *draft* only of an agreement and signed by one of the parties only, was held to be binding in equity, and *Eyre*, Ch. Just. observed, that the agreement beginning I *James Crockford*, in that gentleman's own hand writing, was a sufficient signing within the statute. *Esp. Ca.* 191, and see 2 *Anstr.* 420.

Construction of  
statute of frauds.

Indeed the object of the above statute being avowedly for the prevention of frauds and perjuries, the Courts have in general construed it favourably in all cases where that object is not endangered; and conformably to this rule they have in two cases held agreements to be good, though resting singly on *parol*, viz. where they are admitted by the party who is to perform them, and where to enforce the statute *literally* would in effect be counteracting its spirit: as if an agreement be intended to be put into writing, but prevented by the fraudulent practice of one of the parties. 1 *Eq. Ca. Abr.* 21.

Need not express a consideration.

When an agreement is in writing, the consideration is not enquirable into, for it shall be intended to be executed on good consideration. *Plow.* 308.

But (as mentioned in page 34) if the contract upon which it is founded, appear to be illicit and contrary to morality, no action can be maintained upon it.

The statute relates only to lands, but if the agreement be void as to the land, it will in general be void in respect of any other collateral matter it may contain. 2 *Anstr.* 420. *Ibid.* 424, n (\*)

Cases in respect  
to agreements.

It has been adjudged that an agreement to grant a lease at a future period, accompanied with words of present contract, as that "the lessor doth hereby demise, &c." shall be good as a *present lease*, if it were intended so to be by the parties. 2 *Black. Rep.* 973. But it would be otherwise if no such intention appeared. 1 *Term Rep.* 735. 2 *Ibid.* 739.

Words importing an agreement will amount to a covenant, upon which an action of covenant may be maintained. 1 *Roll. Abr.* 518. As will also the recital of an agreement at the beginning of the deed. 1 *Leon.* 122. 3 *Keb.* 465.

## II. Of an Estate at Will.

An estate at  
will defined.

A second species of estates less than freehold is an estate at *will*. This is where lands or tenements are let by one man to another, to hold at the will (or during the pleasure) of the lessor. *Lit.* § 68;—or, in the words of a more modern writer, where one enters and enjoys the land by the express or implied consent of the owner, without there being any obligation, either on the part of the lessor or lessee, to continue it for any certain or determinate time. *Butler*, note. *Co. Lit.* 55.

And per *De Grey*, Just. all leases for uncertain periods are *prima facie* estates at will ; and it is the reservation of an annual rent that turns them into estates from year to year. 2 *Bluck. Rep.* 1173.

This is so precarious a tenure, and attended with so many inconveniencies, that it is very seldom granted ; and the courts have, of late years, very properly, dis-  
countenanced it as much as possible, by construing it, whenever they can, to be a tenancy from year to year.

But though this estate is said to be held at the will of the lessor, yet it is in fact at the will of both parties, and may be determined at either of their options. *Co. Lit.* 55, except by the custom of *London*, where a tenant at will is entitled to a quarter's notice to quit, if his rent be under 40s. a year, and to half a year's notice if it be above 40s. *Siderf.* 20.

Incidents to this estate.

And in other cases the rule is to be understood with some restrictions, for the law will not suffer any sudden determination of the will of one party to operate to the material injury of the other.

So that if a tenant at will sow his land, and the landlord determine the estate before the corn be ripe, the tenant shall nevertheless have free liberty to enter upon the land and cut and carry away his crop ; the landlord would otherwise be benefited by his own iniquity, which is contrary to a maxim of law, *that no man shall take advantage of his own wrong.*

And on a like principle of justice, the lessee shall in all cases have reasonable time allowed him to remove his goods, &c. after the determination of his estate by the act of the lessor. *Lit.* § 69. *Noy Max. c.* 11.

But in the case of emblements before mentioned, if the lessee, by forfeiture or otherwise, determine his estate by his own act, he shall not be entitled to them, because it is by his own default that he suffers. *Ibid.*

And so if the lessee determine the will between the quarter-days, he shall pay rent up to the end of the quarter ; and on the other hand, if the lessor determine the will between the quarters he shall have rent only up to the last quarter. *Salk.* 414. *Ibid.* 222.

An estate at will may be determined by the express declaration of either party, or by implication of law.

How an estate at will may be determined.  
By express declaration.

An express declaration by the lessor is where the lessor, or some other person authorised by him, enters upon the land, and says, " I here enter and take possession of my



land," or the like ; and he may afterwards cut a twig, or a piece of turf by way of symbol. *Lil. Conv.* 310. and *note*, that of all this there ought to be at least two witnesses, who, to preserve their testimony, should sign a memorandum of the transaction.

Or by implication of law.

An *implied* determination may be by entry upon the land in the absence of the lessee, with an intent to determine the will, or by exercising an act of ownership over the land, as by digging the soil, cutting wood, and the like : by granting a lease thereof to commence immediately ; by distraining for rent ; by the death of the lessor or lessee ; or the marriage of a woman lessee. But since estates at will have been construed as beneficially as possible for the lessor, it has been held, that in case of the *lessor's* death the lessee cannot be ejected without six months notice given him by the representatives of the lessee. *2 Term Rep.* 159. and that if the *lessee* die, his representatives may hold possession till the like notice given. *3 Wilf.* 25. An act of high treason has also been held to be an implied determination of the will. *Co. Lit.* 55. b. *2 Liv.* 88. *Noy Max. c. 11.* *1 Wilf.* 176.

The estate may also be determined by the lessee's committing waste, or by assigning the premises over ; or in short by his doing any act which is inconsistent with the nature of his estate.

*As to the notice to quit requisite to be given to tenants at will, see Chap. VII.*

*And the mode of recovering rent of tenants at will, Chap. VIII.*

### III. Of an Estate by Sufferance.

Estates by sufferance defined

An estate by *sufferance* is where a person having possession of lands or tenements by lawful demise, continues in possession thereof after his estate is ended ; as, if a lessee for years holds over after the expiration of his term. *Co. Lit.* 57. b.

And where the lease is expired, the former lessee (though he may have underlet the premises) still continues tenant, and liable for the rent, unless he delivers up possession, or the landlord accept another in his room. *1 Esp. Ca.* 57.

This estate is now very unusual unless with the consent of the landlord, for by stat. 4 Geo. 2. c. 28. tenants at sufferance who hold against the landlord's consent are put



upon the same footing with respect to the payment of double rent and double value, after notice given them to quit, as we before observed of tenants for years. *Note*—The double *rent* given by this statute may be recovered by *distress* as single rent; but double the improved *value* can be recovered by *action of debt* only. 1 *Black. Rep.* 535.

If a landlord accept rent of a tenant after the expiration of his lease, or does any other act by which he shews his consent that the tenant should continue possession, he converts the estate into a tenancy from year to year. *Co. Lit.* 57. b.

This estate by sufferance, as we before observed, is now become so unfrequent, owing to the last-mentioned act and other inconveniences attending it, that, short as we have been in our observations upon it, we imagine we shall be thought sufficiently copious.

CHAP. V.

OF COPYHOLD ESTATES.

A Copyhold tenure, or a tenure by copy of court roll, is an estate held at the will of the lord, according to the custom of the manor in which it lies. This estate was formerly held *absolutely* at the lord's will, and as precarious in its duration, (if not more so) as that of *tenant at will* mentioned in a former chapter: but though it is still, in truth, held at the will of the lord, and is so expressed to be in the court rolls, yet that *will* from length of time, and the indulgence of particular lords, is now so limited and restrained by the custom of the manor, that it is no longer arbitrary or precarious, but fixed and established by the custom to be the same, and no other than that which time out of mind has been invariably exercised; so that copyholders have now as permanent a property in their lands as the lord himself, and, when copyholds of inheritance with a fine certain, an estate scarcely

Copyhold estate, what.

inferior in point of interest, and in many respects, (particularly in the security of their title, by reason of their admissions being recorded in the manor court), superior to that of an absolute freeholder: and if the lord oust his tenant contrary to the custom, he may have an action of trespass or ejectment. *Lit. 5. 77. Co. Lit. 60. b.* yet his estate is never in law considered as a freehold, because the freehold of the whole manor always resides in the lord. *1 Bur. 1543 2 Black. Com. 147.*

Copyholders  
may have va-  
rious estates.

As the customs of different manors (by which copyhold estates are entirely and in all respects regulated) differ as much as the wills of their ancient holders, a copyholder may, if warranted by the custom, have all those various estates which we have enumerated in the preceding chapters, as an estate in *fee-simple, fee-tail, for life, &c.* and hold them united with his customary estate at will, liable to be determined, however, by committing such acts, or by the happening of such events, as the will of the lord (promulgated by the custom) has declared to be a determination of the estate: these are in some manors the cutting down timber, in others the non-payment of the customary fines, in others the want of issue male, &c. &c.

The customs of different manors being so many and various, to enumerate them all were impossible; we must content ourselves, therefore, with mentioning those general customs only which extend to all copyhold estates, in whatever manor situated, and noticing the principal decisions which have been made upon them by the courts. It may first however be observed, that two main requisites are held to be the supporters of the copyhold tenure, and without which it cannot exist; these are, 1. That the lands be parcel of and situated within the manor of which they are held. 2. That they have been demised or demiseable by copy of court roll from time immemorial. *Co. Lit. 58. b.*

Requisites to  
every copyhold.

The principal  
customs of copy-  
holds in general.  
Estovers.

By the general custom of all manors, it seems that a copyholder is intitled to the estovers, or botes we have formerly spoken of, that is to say, house-bote, cart-bote, and hay-bote; these he may take from the land without leave or assignment of the lord. *13 Co. 68, but see Cro. Eliz. 5. Cowp. 72.*

Every copyholder may make a lease for one year certain, of his lands, without licence, and his lessee may maintain an ejectment for the possession. *9 Co. 75.*

And by the custom of most manors, copyholders of inheritance are permitted to grant leases for any other term not exceeding his own life. 1 *Leo.* 4. *Cro. Eliz.* 535, 676. *Co. Cop.* § 51. 4 *Co.* 26. a.

But he can in no case make a lease till after admittance. *Ejp.* 140—but where a copyhold was surrendered to one for life, with remainder to another in fee, the admittance of the tenant for life was held to be a sufficient admittance of the reversioner. *Cro. Jac.* 31.

Copyholds of inheritance descend to the heirs of the tenant according to the rules of the common law. 4 *Co.* 22. *Co. Cop.* 114, and an entry in the court roll of the manor, stating the mode of descent, is evidence of the customary descent. 5 *Term Rep.* 26.

But though in respect of *descents* copyholds are governed by the rules of the common law, yet they do not partake of the nature of freeholds in other respects; for they are not affets in the hands of the heir, nor shall a woman be endowed, or a man be tenant by the curtesy of a copyhold, unless by special custom. 6 *Mod.* 64. 4 *Co.* 23.

And by *special custom*, a descent may be contrary to the rules of the common law, but it will then be *strictly* construed; as, where there was a custom that lands should descend to the *eldest sister*, if there be neither son nor daughter; this was held not to extend to an *eldest niece*. 1 *Term Rep.* 466.

Heriots, wardship, and fines are incident to most copyholds; heriots belong as well to copyholds for life, as to those of inheritance, but wardship and fines to those of inheritance only. 2 *Black Com.* 97.

*Heriots* are due to the lord, and become vested in him as his property, immediately on the death of the tenant. In some places there is a customary composition in money in lieu of a heriot, by which the lord and tenant are both bound, and also their representatives, if it be an *ancient* custom; but a *new* composition of this sort will not bind the *representatives* of either party, because no new custom can now be created, as it is essential to a good custom that it has existed *immemorially*. *Co. Cop.* § 31. 2 *Black Com.* 97. 422.

Heriots, whether by service or custom, if due by ancient tenure, may be seized, though they be off the manor, but not if they be reserved by deed. 1 *Shrw.* 81.

Where *wardship* prevails, the lord is the legal guardian, *Wardships.*

and accountable to his ward for the profits; he seldom, however, takes the guardianship into his own hands, but usually assigns some relation of the infant to act in his stead. 1 *Show.* 81.

I. s.

As to *fin*es, they are sometimes arbitrary and at the will of the lord; sometimes fixed by the custom: some are due on the death of each tenant, and others on the alienation of the lands: but though *due*, on death or alienation, they are not *payable* till the admission of the next tenant. 2 *Term Rep.* 484.

But where the fine on the descent or alienation of a copyhold is arbitrary, it is tied down to be *reasonable* in its extent, and therefore two years improved value of the estate is the utmost allowed to be taken. 2 *Ch. Rep.* 134. *Doug.* 697, in which case it has been held, that the lord is not bound to make any deduction on account of land-tax. *Doug.* 724.

Recent determinations respecting fines on admission.

In respect to the fine of a copyholder to be paid on admission, the following determinations have recently occurred.

If a copyhold be granted to one for years, and he die during the term, his executor shall pay a fine on admittance, the fine being due on every change of tenant. 1 *Bur.* 206. 218.

One *gross* fine cannot be assessed on the admission to several tenements, but a separate fine must be set upon each. *Doug.* 721.

Fines shall be according to the present improved value, and not according to the rent reserved under a subsisting lease granted by licence of the lord, because otherwise the lord might be imposed upon. *Stra.* 1042.

And by 9 Geo. 1. c. 29. "the fine imposed on admittance of *infants* and *feme coverts* may be demanded by the bailiff, or agent of the lord, by a note in writing, signed by the lord or his steward, to be left with such infant, or feme covert, or with the guardian of the infant or husband of the feme covert, or with the occupier of the land to which such admittance was made." And if such fine be not paid, the lord may enter and receive the profits of the copyhold till he be satisfied. *Stra.* 1042; or if the guardian of the infant, or husband of the feme covert, pay the fine, they may reimburse themselves out of the rents of the copyhold. *Ibid.*

And an action of *assumpsit* will lie after an infant comes of

age, f  
1. *Ld.*  
I  
accou  
court  
amin  
till ac  
Ot  
ready  
the fu  
Co  
juries  
two  
*Brow*  
A  
toman  
court  
A  
her fi  
does  
cover  
525.  
A  
rolls  
dence  
by an  
It  
his h  
lord  
down  
Co  
copy  
tion  
Co  
wher  
tail  
506.  
the r  
W  
conv  
fame  
on th  
tenan  
inter



age, for a fine imposed during his infancy. 3 *Bur.* 1717.

1. *Ld. Raym.* 30.

If the lord of a manor refuse to admit a surrenderee on account of a dispute concerning the fine to be paid, the court will grant a mandamus to compel him, without examining the right to the fine, because the fine is not due till admittance. *Cro. Car.* 196. 2 *Term Rep.* 484.

Other incidents to the copyhold tenure (besides those already noticed), as collected from the latest decisions on the subject, are the following:

Other incidents,  
&c. of copy-  
holds.

Copyholds are not within the statute of frauds and perjuries, and therefore will pass by a will attested by only two witnesses, or even one only. 2 *P. Wil.* 258. 2 *Brown Ch. Rep.* 58.

A recovery in Common Pleas may be good of customary freeholds, which pass by surrender in a borough court, though it is not good of copyholds. 1 *Atk.* 474.

A woman is by the custom of many manors entitled to her free-bench out of her husband's copyholds; but this does not extend to all the lands he was seized of during the coverture, but to such only as he died seized of. 2 *Atk.* 525. *Cowp.* 481.

A custom of a manor delivered down with the court rolls from steward to steward time immemorial, is evidence to prove the course of descent, though not signed by any tenant. 1 *Term Rep.* 466.

It has been held that a copyholder, to hold to him and his heirs for 3 lives, without power of compelling the lord to renew on the falling in of the lives, cannot cut down timber growing on his estate. 2 *Ibid.* 766.

Copyholds ought to be always demised or demiseable by copy of court roll; and they cannot be created by operation of law. *Co. Lit.* 58. 2 *Term Rep.* 415, 705.

Copyholds may, by special custom, be entailed; and wherever the custom allows a tenant to bar the estate-tail, it may be done by surrender. 2 *Atk.* 101. 2 *Vez.* 596. *Amb.* 279. But *Willes*, C. J. thought recovery the most proper mode. 2 *Vez.* 603.

We shall now say a few words concerning the mode of conveying copyholds from one man to another, at the same time noticing the principal resolutions of the courts on that head; and conclude our remarks upon copyhold tenure by some observations on the means by which the interest of a copyholder may be destroyed.

The mode of  
conveying copy-  
holds.



By surrender.

The most general mode of conveying copyholds is by *surrender*. A surrender is the yielding up of the tenant's estate into the hands of the lord, for such purposes as in the surrender are expressed. This is done by the tenant's resigning (either in the manor court, or out of it, according to the custom, by the delivery of a rod or other symbol) all his interest and title to the estate into the hands of the lord, by the hands and acceptance of his steward; or sometimes by the acceptance of two customary tenants of the manor, in trust to be granted out again by the lord to such persons, and to such uses, as are mentioned in the surrender. And if the uses be indorsed on the back of the surrender, and signed by the steward, it is sufficient, though they be not mentioned in the rolls. 3 *Atk.* 73.

*Note*, Where a steward's authority is *ordinary and necessary*, as in this case, and not of a *judicial* kind, the Courts are not particular in enquiring into the regularity of his appointment; on this principle a steward *de facto*, or in other words a *nominal* steward, has been held to be sufficient.

Immediately upon such surrender made, the lord by his steward grants the estate to the surrenderee, and admits him to hold by the ancient rents and customary services, according to the form and effect of the surrender, which must be exactly pursued. On this grant and admission it is that the fine we have before spoken of is paid.

"This method of conveyance," Sir William Blackstone observes, (2 vol. *Com.* 367.) "is so essential to a copyhold estate, that it cannot properly be transferred by any other assurance. No leasehold or grant has any operation thereupon. If I would exchange a copyhold estate with another, I cannot do it by any ordinary deed of exchange at the common law, but we must surrender to each other's use, and the lord will admit us accordingly. If I would devise a copyhold, I must surrender it to the use of my last will and testament; and in my will I must declare my intentions, and name a devisee, who will then be entitled to admission."

But equity will supply the want of a surrender of a copyhold, if it be devised for the payment of debts, or to a wife and younger children unprovided for. 1 *Brown Rep.* 273. 2 *Ibid.* 325. 3 *P. Wil.* 96, 322, 283. This rule however, does not extend to grand-children. 2 *P.*

*Wil.* 61. 3 *Atk.* 189, nor to natural children, brothers, or cousins. 2 *Ves.* 582. 3 *Atk.* 189.

In order to give the reader as clear an idea as possible of this peculiar species of assurance, we shall take a separate view of its several parts, viz. of the *surrender*, the *presentment*, and the *admittance*.

The *surrender*, though defined to be a yielding up of the copyholder's estate into the hands of the lord for the purposes therein mentioned, does not transfer any immediate possessory interest to the nominee; it is little more of itself than a declaration of the surrenderor's intention, and the *legal* estate does not vest till after *admittance*, till when the surrenderor continues tenant of the estate, and must perform all the customary services due to the lord. He is, however, considered as a trustee for the surrenderee, and cannot afterwards revoke his grant, or make any other disposal of the estates surrendered; on the other hand, the surrenderee is entitled to the rents and profits from the time of the surrender, and may at any time, by bill in chancery or mandamus, compel the lord to admit him in pursuance thereof. 2 *Rol. Rep.* 107. *Co. Cop.* § 39. 1 *Term Rep.* 600.

And after surrender made, the admittance is held to relate back to that period, so that the surrenderee may recover on a demise laid between the time of surrender and admittance. 1 *Term Rep.* 600.

The *presentment* is when the surrender has been made *out of court*. In this case the jury or homage must at the next or some subsequent court, according to the custom, present, or find it upon their oaths; which presentment is an information to the lord or his steward of what has been transacted out of court. It must be brought into court by the same persons as took the surrender, if living, and must in all essential points agree with the surrender: presentment may be made, notwithstanding the death of the nominee, and his heir by the custom shall be admitted, and in all cases of refusal to make presentment by the persons into whose hands the surrender was made, they may be compelled by petition to the lord in his court baron, and if he refuse to do justice, relief may be found in Chancery. *Co. Cop.* § 40.

*Admittance* is the last stage or perfection of copyhold assurances, and is made either in pursuance of a surrender of the former tenant, or in consequence of a descent from the ancestor to the heir. In either case the lord is con-

sidered as a mere agent or instrument, to whom no interest passes by the surrender, and from whom, consequently, none passes by the act of admittance. It is immaterial, therefore, as to the *validity* of the admittance, whether the lord's title be good or bad, since he is *officially*, as it were, *obliged* to admit the nominee properly presented. There is a difference, however, between admittances on surrender, and those on descent; for by surrender, as we have observed before, nothing is *vested* in the *surrenderer* till admittance; but when the *heir* takes by *descent*, he is to most purposes completely tenant *immediately* on the death of his ancestor: he may enter and receive the profits, and (after payment of his admission fine) may surrender his estate to another's use. 4 Co. 23. 2 Term Rep. 197. He is nevertheless *obliged* to be admitted within a short time after his ancestor's death, or else by the *custom* of every manor he will forfeit either the copyhold itself, or some pecuniary penalty. Co. Cop. § 41. And a tenant cannot be sworn on the homage, or bring an action against his lord till admittance.

By Stat. 9 Geo. 1. c. 29. § 1. *Infants and feme covert*s being entitled by descent or by surrender to the use of a will, to be admitted to any copyhold, may, in their proper persons, or a feme covert by attorney, and an infant by his guardian, or if he have no guardian, by his attorney, appear in one of the three next courts for the manor, of which the copyhold premises are parcel, and offer themselves to the lord or his steward to be admitted tenants.

Determinations  
relative to sur-  
renders and ad-  
missions.

In respect to the surrenders and admissions of copyholders, the following determinations principally deserve our notice.

Where a copyhold is settled on one for life, with remainder to another in fee, the admittance of the tenant for life is held to be an admission of the reversioner, so that no new admission is necessary on the tenant's death, as both make but one estate. Cro. Jac. 31.

And when admission is had, it relates back to the time of surrender, and renders valid any intermediate act. 1 Term Rep. 600.

A man may surrender a copyhold estate to the use of his wife, notwithstanding the rule of law, that man and wife being but one person, cannot contract; for the estate is first given to the lord, *from whom* the wife takes it as an instrument to convey the estate to her. 4 Co. 29. Sty. 145.

A feme covert cannot surrender her copyhold without the consent of her husband, nor will any custom that she shall, be good; it being contrary to law and the policy of nations, and if admitted would tend to make wives independent of their husbands. *2 Wils. 1.*

But a feme covert separated from her husband, may, under a covenant that she shall enjoy whatever property shall descend to her, surrender without her husband a copyhold descended to her after separation, without any special custom. *Black. Rep. 344.*

The surrender of a copyhold to the use of a will, does not vest the estate in the appointee dying in the life-time of the testator. *2 Vez. 77.*

Nor will it apply to a will made previous to the surrender, because the will extends only to the estates the testator was seized of at the time of making it. *Amb. 299.*

And so of the surrender itself; it applies only to the lands which the surrenderor had at the time of the surrender. *6 Term. Rep. 63.*

No surrender is necessary to pass an equity of redemption. *2 Atk. 37.*

A copyhold surrendered to the use of a man's will, was held to pass by the description of all his *real* estate, where it appeared to be the testator's intention that it should. *2 Vez. 164.*

A surrender made to a woman when sole, is suspended, if not revoked, by her marriage; because by the marriage the surrender becomes fluctuating and ambulatory, till some further legal act be done to complete it. *Amb. 628.*

The same construction must take place in surrenders as in other law conveyances; and it is not sufficient (as in wills) that the intention of the parties was otherwise. Therefore, where a copyhold was surrendered to the use of husband and wife for their lives, remainder to their heirs and assigns, remainder to the right heirs of *A.* the husband and wife were held to have an estate in fee, and not an estate-tail. *1 P. Wil. 71. & vid. 2 Atk. 101. 3d. Ab. 11. and 1 Show. 285.*

The surrenderor is considered as a trustee for the surrenderee till admittance; and the surrenderee may maintain an ejectment before admittance; for the courts will not suffer a trustee to set up an objection against his cestui que trust. *1 Term. Rep. 600.*

The court will not grant a *mandamus* to compel the lord



to admit a copyholder by descent, because he has a complete title before admittance against all the world but the lord. *2 Term Rep.* 189.

We now proceed to our remarks on the forfeiture of copyholds

How copyholds  
may be forfeited.

A copyhold estate may be forfeited by committing treason, or felony; by alienation by deed; by committing waste, either voluntary or permissive; by denying or withholding the customary services; by refusing to pay the customary fine; by disclaiming to hold of the lord; by neglecting to be admitted tenant within a year and a day, and a variety of other acts or omissions peculiar to each manor. *Lit.* § 71. *Ow.* 17. *Rel.* 506. *Dy.* 211. *Co. Cop.* § 57. *8 Co.* 99. In none of these cases, however, does the forfeiture accrue, till after the offence is presented by the homage or jury of the lord's court. *Co. Cop.* § 58.

Copyholds are forfeited by alienation by deed, and if it be by *fine, recovery*, or feoffment with livery, (which divest the estate) it is an absolute and immediate forfeiture, and if by a lease for years, it is a forfeiture, on the lord's taking advantage thereof by entry; these acts being contrary to the nature and existence of the copyholder's estate, who, as we have observed, is in law deemed no more than a tenant at the will of his lord. *Co. Lit.* 59. a.

A lease for *one year only*, is however held not to be a forfeiture, such lease by a copyholder, Sir Edward Coke observes, being warranted by the *general custom* of the realm. *4 Co.* 26.

Waste is another cause of forfeiture in copyhold estates, and that whether it be *voluntary or permissive* only. But in this latter case, a Court of Equity will in general give relief to compel the lord to re-admit the tenant, on being tendered satisfaction for the injury sustained. *Prec. Chan.* 568. (*as to what acts are deemed waste, see ante p. 32.*)

By the custom of most manors, it is also a forfeiture to neglect to be admitted, and pay the fine due to the lord, after three proclamations made. But this will be no forfeiture without a special custom to warrant it. *8 Co.* 99. *3 Term Rep.* 170.

The lord may however seize the estate till the tenant come and pay his fine; but he must declare, that it is on that account he retains it, or it will be construed to be an absolute seizure. *3 Term Rep.* 170.

And if the lord would take advantage of the non-pay-



ment of a fine uncertain, he must set a reasonable fine, and prefix a day and place within the manor for payment of it, otherwise the non-payment is not a forfeiture.

By Stat. 9 Geo. 1. c. 29. it is provided, that no *infant* 9 Geo. I. c. 29. or *feme covert* shall forfeit any copyhold by neglecting or refusing to be admitted, or to pay the customary fine.

The lord for the time being, and no other lord, shall take advantage of forfeiture, except in those cases only where the act of forfeiture destroys the estate. 3 Term Rep. 173.

Though a copyhold tenant for *life* surrender to the use of another *in fee*, it is no forfeiture, because the court rolls will always shew who is tenant; therefore the reversioner's estate is in no danger. 1 Term Rep. 466.

And in all these cases of forfeiture, the lord may recover his copyhold by ejectment. *Esp. Ni. Pri.* 440.

If after committing such a forfeiture as may be waived, the lord do any act which may seem to amount to a waiver, as, if he admit a presentation that the tenant died seized, and proclaim for his heir to come in, &c. it shall be a dispensation of the forfeiture. 3 Term Rep. 171, 471.

## CHAP. VI.

### OF ESTATES IN SEVERALTY, JOINT-TENANCY, COPARCENARY, AND COMMON.

**A**LL the estates of which we have treated in the preceding chapters, may be held in four different ways; in severalty, in joint-tenancy, in coparcenary, and in common.

A tenant in *severalty* is he that holds lands, &c. in his sole right, without having any other person partaking with him in the interest of his estate: this is the most usual manner of holding an estate, and that to which all our preceding rules and observations were intended to apply.

Tenant in severalty.

Joint-tenancy.

An estate in *joint-tenancy* is where lands or tenements are granted to *two or more* persons to hold in fee-simple, fee-tail, for life, for years, or at will. The grand incident to this estate is, that on the death of one of the tenants, the whole interest devolves on the survivor.

Tenant in Coparcenary.

An estate in *coparcenary* is where lands of inheritance descend from the ancestor to two or more persons.

Tenant in common.

A tenant in *common* is where two or more persons hold the same estate by different titles; as, if a joint-tenant grant his part of the estate to another, the grantee and the other joint-tenant will hold as tenants in common.

Observation.

We have thought it necessary, for the sake of method, just to enumerate these several estates, but to enter at large into their different properties and peculiarities, would be entirely foreign to our present purpose, and we apprehend altogether useless to our readers; we shall, therefore, proceed to such remaining parts of our subject, as we conceive to be of more general utility. Those, however, who wish for farther information concerning these estates, will meet with ample satisfaction by consulting *Coke's first Institutes*, *Lilly's Practical Conveyancer*, and the 2d vol. of the Commentaries of *Blackstone*.

## CHAP. VII.

## OF NOTICE TO QUIT.

WE formerly observed, in speaking of estates at will, that the law would not suffer such a sudden determination of the tenancy, by either landlord or tenant, as might tend to the manifest and unforeseen prejudice of the other party, and that partly upon this principle the courts had of late years leaned as much as possible towards construing demises for an *uncertain* period to be held from *year to year*, in which case, neither party can determine the tenancy without *reasonable* notice to the other. What length of time has been considered under different circumstances, to be *reasonable* notice, we now purpose to enquire.

And we may first observe, that notice is necessary only where the duration of the estate is fixed to no certain or predetermined time, but depends upon the pleasure of the parties, or some other *uncertain* event; as where it is holden for the life of another; from year to year; as long as the parties shall agree, &c. for where it is by lease for a *certain term*, the tenant may be ejected at the end of such term, without any previous notice to quit, for at the expiration of his term, the tenancy is determined *as of course*, unless a fresh agreement be entered into. 1 *Term Rep.* 162. But it has been said, that in order to charge a tenant with double rent in pursuance of 4 Geo. 2. c. 28. in case he should hold over after the end of his lease, he must be apprized that he will be expected to quit at the expiration of his term. 1 *Term Rep.* 53.

Where notice necessary, and where not.

And if the tenant have done any act which amounts to a renunciation of his tenancy, as attorning to a stranger, or controverting his landlord's title, he may be ejected without any previous notice (as may his executor, in case of his decease), because he has himself determined his estate. 3 *Wils.* 25. *Cowp.* 622. 2 *Brs.* 161.

But in all cases where the estate is determinable at the will of either party, or at any other undetermined or uncertain period, the tenant cannot be ejected till *half a year's* notice has been given him to leave the premises: and such notice must expire at the same time of the year as that on which the tenancy commenced; as, if a demise be from *Midsummer* to *Midsummer*, the notice to quit must be given at *Christmas*, so as to expire at *Midsummer*. 1 *Term. Rep.* 54, 159, 163. 3 *Wils.* 21, and see 2 *Black. Rep.* 1224.

And in an estate at will, it has been held, that in case of the death of the lessor, his representatives must give six months notice to the tenant before he can be evicted. 2 *Term Rep.* 159, and likewise, that if a lessee at will die, his representatives may continue in possession till the like notice given. 3 *Wils.* 25.

But where a tenancy commenced previous to a mortgage or grant of the premises by the landlord, it was held to be immaterial when notice given by the grantee or mortgagee expired, it not being necessary in this case that the notice be made to expire at the time the tenancy commenced, as the mortgagee or grantee are not supposed to know when that was. 1 *Term Rep.* 380.

Nor is any notice necessary from a mortgagee who

Lessor and lessee  
at will.

means only to get into receipt of the rents and profits without turning the tenant out of possession. *Doug.* 21.

A question arose as to what notice it was necessary for a *lessor at will* to give to a *lessee at will* of land, before he could bring an ejectment, and it was unanimously held at a meeting of eleven judges, that *half a year's* notice must be given, and that the same notice was necessary as to *houses* let at will, unless some other custom prevail in the district where the house is situated, and such notice must expire at the end of the year, computing from the time the tenancy commenced. 1 *Term Rep.* 54. & see *id.* 162.

A relaxation however, has in some cases been admitted to the strictness of this rule, as where notice was given on the 30th September, (being the *day after Michaelmas-day*) to quit on the *Lady-day* following, it was ruled by *Heath, Just.* to be a good notice. *Esp. Ni. Pri.* 460.

And so too where the nature of the agreement or tenancy implies, or the custom of the country sanctions a departure from the rule—see 2 *Blac. Rep.* 1224. Thus by the custom of *London*, a tenant under the yearly rent of 40s. is entitled to a *quarter's* notice only to quit, but tenant above that rent to half a year. 1 *Skin.* 649, and twelve months or three months only will be the proper notice, if such be the custom of the place. 3 *Bur.* 1609. *Peake's Ca.* 5.

Infant.

The same notice is required from an infant under 21, who becomes entitled to the reversion of rents let from year to year, as from the original lessor. 2 *Term Rep.* 159.

And so in a case where there was an agreement between landlord and tenant, that the tenant should hold during the landlord's life, on condition that the landlord's son should be at liberty to take the premises on his coming of age; it was held that the infant must give reasonable notice, when of age, of his intention, and could not evict the tenant after a year's delay. 2 *Term Rep.* 436.

And it has been said, that if the landlord, from ignorance as to when the tenancy commenced, serve notice on his tenant ending at a wrong time of the year, the tenant must inform him of such irregularity, or it will be a waiver of it. *Esp. Ni. Pri.* 461, but see 4 *Term Rep.* 361, where it is said, that the insufficiency of the notice may be insisted on at the trial, though no objection was made to it when given.



*Lodgings*, taken for a short period, are an exception to the rule we have laid down, that notice must expire on the quarter-day whereon the tenancy began. These depend either upon the express agreement between the parties, or the particular circumstances of the case, as the length of time for which they are taken, &c. if for less than a year certain, any *reasonable* notice is held to be sufficient. 1 *Term Rep.* 163. What is *reasonable* notice must, in case of dispute between the parties, be decided by a jury. In London, if no particular notice is mentioned, I believe it is generally understood, that a week's notice shall be given, if the apartments are taken *by the week*; a month's notice, if taken *by the month*; and a *quarter's* notice, if taken *by the quarter*; and this rule (if such it be) appears to be sanctioned by a late case of *Parry v. Hazell*, in which it was agreed, that "notice had reference in all cases to the letting," unless controuled by the express agreement of the parties—see 1 *Esp. Ca.* 94.

And in a still later case, *ib.* 266, it was ruled by *Kenyon*, Ch. Jus. that where the tenant had given *three* months notice only, to quit, (where *six* was strictly necessary) and the landlord had not *expressly* objected to-it, his silence in this respect was an acquiescence in the validity of the notice, and therefore bound him to accept it.

But if the lodgings be taken for a week, or month, or any other *time certain*, no notice at all is expected, it being necessarily implied, that when the period for which they were taken be up, the tenant is to depart, unless he enter into some fresh agreement.

A second notice to quit *or* pay double rent, after the expiration of a former notice, has been held to be no waiver of the first notice, or of the double rent accrued by it. *Doug.* 175. 167. Second notice.

But notice to quit is in general waived by the receipt of rent due subsequent to such notice. 1 *H. Blac. Rep.* 311. 6 *Term Rep.* 219—but of this see more *post*, Title Rents.

Notice which is not good for one year, will not be good for the next, as it will be presumed to be withdrawn. 1 *Bro.* 161. Void notice.

If there be tenant from year to year, and the landlord mortgages the premises during the year, the tenant is entitled to 6 months notice to quit from the mortgagee. *Doug.* 21.

Generally speaking, where notice is required by law to be given to any party, leaving it at his dwelling-house is sufficient. 4 *Term Rep.* 465; and where tenant of an How notice to be served.



estate holden by the year has a dwelling-house at another place, the delivery of notice to his servant at his *dwelling-house*, is strong presumptive evidence that his master received it, and it will be left to the jury to say whether he did or not. *Ibid.* 464.

Double rent on  
refusing to quit;

By 11 Geo. 2. c. 19. If any tenant shall give notice to quit possession of premises demised to him, and shall not quit them accordingly at the time in such notice mentioned, he, his executors, or administrators, shall pay double the reserved *rent* for so long time as he shall continue possession after such notice given.

and double value.

And by 4 Geo. 2. c. 28. If any tenant for life or years, or other person claiming under him, shall hold over after the determination of his term, *notice in writing* being given for delivering up possession, he shall pay double the yearly *value* of the premises he shall so refuse to deliver up.

As to holding over by guardians or trustees of infants, husbands seized in right of their wives, and all others having particular estates determinable on a life or lives, see 6 An. c. 18. § 1.

Parol notice.

A *parol* notice to quit by a tenant, on a *parol* demise, is good notice, and within the meaning of this statute. 3 Bur. 1603, and it has been said to be the same, though the demise be in writing. *Ibid.*

Where notice  
not necessary.

But no notice is necessary where the tenant has attorned to some other person, or done any other act disclaiming to hold of his landlord. *Ej. N. Pri.* 462.

And it is said, that no notice is necessary where the tenant is in possession under a *void* demise. *Ibid.* 463.

Notice to quit at any particular feast-day, is presumptive evidence of holding from that time, and puts the other party upon proving the contrary. 2 Black Rep. 1224. 1 Term Rep. 161.

*In what cases acceptance of rent, after the expiration of notice to quit, is a waiver of such notice, and in what not, see post, p. 61.*

R  
natu  
patic  
of re  
that  
lord,  
the o  
the la  
sider  
landl  
minu  
quire

1.  
2.  
3.  
4.  
5.  
6.

Re  
of lan  
for th  
must  
nemer  
§ 626.  
suing  
C. L.  
In p  
lessee  
mentio  
premi  
And

CHAP. VIII.

OF RENTS.

**R**ENT is defined to be a certain profit issuing yearly out of lands or tenements corporeal, and is in the nature of a return or compensation for the use and occupation of them. There are at common law various species of rent; as rent-service, rent-charge, rent-seck, &c.; but that which is usually reserved from a tenant to his landlord, as a retribution for the profits of land demised, is the only one which belongs to our present subject: and the law relating to this species of rent, composes so considerable a part of the information necessary for every landlord and tenant, that we shall spare no pains to be as minute and explicit as the importance of the subject requires: with this view we will consider,

Rent defined.

Observation.

1. *How and to whom rent ought to be reserved.*
2. *To whom it is payable on the death of the lessor, and other particular cases.*
3. *Of the demand of rent.*
4. *Of the tender and refusal of rent.*
5. *Of the acceptance of rent.*
6. *Of the mode of recovering rent in arrear.*

1. *Concerning the Reservation of Rent.*

Rent being, as we before observed, a profit issuing out of lands or tenements, by way of return or recompence for the use and occupation of them; it follows, that it must be reserved and made payable *out of* the lands or tenements demised, and *to* the person demising them. *Perk.* § 626.—It must not be a part of the thing itself; nor issuing out of something else; nor payable to a stranger. *Co. Lit.* 47. 142.

How rent is to be reserved.

In pursuance of these rules it has been held, that if a lessee simply covenant to pay such a sum yearly, without mentioning it as in consideration for the demise of the premises, it is not a *rent*, but a sum in *gross*. 2 *Bulf.* 281.

And so if a lease for years be made, rendering rent to the

*heirs* of the lessor, the reservation is bad, because not to the *lessor* first; but it was said by my Lord *Coke*, that the clearest and safest way is to reserve the rent generally during the term, without saying to *whom*, and leave it to be distributed by the law—see 8 *Co.* 70.

Also, if the reservation be of grass, herbage, or other vesture of the land, it is bad, because these are part of the thing demised. *Co. Lit.* 47.

Rent must be reserved *yearly*; because, in contemplation of law, it is to proceed from the *annual* produce; but it needs not be reserved *every successive* year; for if it be *every other* year, or *every third* year, &c. it is equally good. *Ibid.*

And it should seem that the reservation must be founded on a consideration, that is itself not unlawful—for in an action of *assumpsit*, for use and occupation for a room let to a woman of easy virtue, and so known to be by the plaintiff, it was ruled by *Kenyon*, Ch. Jus. that the contract was *contra bonos mores*, (that is,averse from morality) and therefore not maintainable. 1 *Esp. Ca.* 13.

Rent need not be reserved in *money*, for *corn* or other things may be rendered by way of rent; or it may consist in *service*, as to plough so much land for the lessor, &c. 2 *Black. Com.* 41.

And in the case of reservation of corn, the quantity reserved will be intended to be the legal measure of 8 gallons to the bushel. 6 *Term Rep.* 338.

It must be a *certain* profit, or what may at least be reduced to a certainty by either party; for if it were an *uncertain* demand, it would be impossible to award adequate damages in case of failure. *Co. Lit.* 96.

And if a man demise an estate at will, rendering rent after the rate of 18l. per annum, as long as the demise continues, it will be void, for uncertainty; as it does not appear what rent he shall pay in *certain*, or at what time. 4 *Mod.* 79. 1 *Sal.* 262.

A rent cannot, at law, issue out of a term of years, but must come out of the reversion; therefore, if a lessee assign his term, he cannot distrain for the rent, without expressly reserving a power for that purpose. 2 *Wilf.* 375.

2. *To whom Rent is payable on the Death of the Lessor, and in certain other Cases.*

It has been said, that rent is reserved, payable to the lessor and his *heirs*; but this is to be understood only where the lessor has the inheritance, for in case of the death of the lessor, a distinction is to be taken where the lands demised are freehold, and where leasehold, if he had the fee-simple of the premises demised, all rent becoming due subsequent to his death, will be payable, (as incident to the reversion), to his heirs at law; but, if he had a term of years only in the premises, the rent will be payable to his executors or administrators, as part of his personal estate. *Went. 53. 2 Show. 134.*

As to freehold and leasehold premises.

And in the case of leasehold interests, the rent reserved so certainly and indisputably belongs to the *executors or administrators*, and not to the heir; that though in the lease it be expressly reserved to the *heirs* of the lessor, yet shall the executors or administrators have it. *Co. Lit. 57.*

But though rent of lands held in fee-simple, will, as incident to the reversion, go to the heir, yet the arrearages which became due in the lessor's *life time* will belong to the *executors* or administrators, for by 32 *Hen. 8. c. 37.* "The *executors* or *administrators* of tenant in fee-simple, fee-tail, or for term of life, unto whom any rent shall be due, and not paid at the time of their death, shall have action of debt for such arrearages against the tenants, who ought to have paid in the lifetime of the testator, or against the executors or administrators of the said tenants." And as to the under-tenants of tenant for life, see 11 *Geo. 2. c. 19. post. p. 62.*

Arrearages.

And if rent be payable on the four usual feast-days for payment of rent, or *within twenty days* thereafter, and the lessor die *after the feast-day*, but before the expiration of the *twenty days*, the rent is payable to the *heir*, and not to the *executors* of the lessor; because the *legal and compulsory* time of payment is not till the end of the 20 days. *Cro. Jac. 227.*

And so if he die between *sun-set* and *midnight*, on the day upon which the rent is reserved, the rent will belong to the executors or administrators of the lessor; but if *before sun-set*, then it will belong to his heirs; for it is pay-

able at any time before sun-set, though not strictly due till midnight. *Co. Lit.* 302. *Vid.* 1 *P. Wil.* 178.

Tenant in common.

If a tenant holding under two tenants in common, pay the whole rent to one of them, after notice from the other not to pay it, the other tenant in common may distrain for his share. 5 *Term Rep.* 246.

### 3. Of the Demand of Rent.

Demand of rent.

In some cases an express demand of rent in arrear must be made before it can be recovered, and in others no demand is necessary. How far this distinction extends it is very material to enquire.

Where necessary.

The general rule is this, where the remedy given by the lease for non-payment of rent, is by way of *re-entry*, a demand must be made before the landlord can enter, otherwise his entry will be wrongful; the reason of which is, that the law will not suffer the tenant to be divested of his estate without a wilful default in him, which cannot appear till demand and refusal. *Co. Lit.* 153. 201.

On a like principle a demand is necessary, where a *no-mine pœnæ* or penalty, is reserved in case of non-payment. *Hob.* 207, 331.

Where not.

If however a demand is dispensed with by the express terms of the lease, it is not necessary to make one previous to the entry, for in this case the lessee has undertaken to pay the rent, whether demanded or not, and must abide by his own agreement. *Dyer*, 68. 5 *Co.* 40 b.

But where the remedy is by *distress* (which is the legal and proper remedy of a landlord for recovery of rent in arrear, when no other is reserved in the lease), no previous demand is necessary in order to distrain, not even though the lease expresses that the lessee may distrain for rent behind, *being lawfully demanded*; because, in fact, the distress itself is a demand; and the tenant is not divested of his estate by a distress, as he is by *re-entry*; for on tender of the rent, the distress must be immediately withdrawn. *Mor.* 883.

Exceptions.

There are however some exceptions to the above rule, which are principally these: when the rent is not payable on the land (which it is if no other place be mentioned), but at some other place appointed in the lease; and the tenor of the lease is, that the landlord shall distrain for rent behind, being first lawfully demanded *at the place mentioned in the lease*; though the remedy be by distress,

yet he  
mand  
strict

An  
rent o  
the te  
tende  
landl  
mand

Re  
before  
so tha  
*Co. L*

A  
made  
nant,  
fore,  
made  
ing n  
it is su

But  
need  
as the  
has i  
rent,  
any w

An  
viousl  
deman  
due n  
than  
to a w  
it mu  
will b  
that a  
ing by  
rity.

Te  
at the  
if it b  
action



yet he cannot distrain till demand, because, when the demand is otherwise than as the law requires, it must be strictly complied with. *Hob. 208.*

And where the lessor omits to come and receive the rent on the day appointed in the lease for payment, and the tenant was on the land ready to pay it, and made a tender of it in the presence of witnesses: in this case the landlord cannot afterwards distrain, till he has first demanded it. *Ibid.*

Rent may be demanded, and is payable, at any time before sun-set on the day upon which it is made payable, so that there be light enough for the lessor to count it by. *Co. Lit. 302.*

A demand of rent, previously to a re-entry, must be made on the *most notable* place on the land, where the tenant, in contemplation of law, is supposed to be; therefore, if the premises consist of a house, &c. it must be made at the front door of the house; the person demanding need not enter the house, if he demand it at the door, it is sufficient. *1 And. 27.*

How a demand is to be made.

But where a demand is necessary in order to *distrain*, it need not be made at the *most notable* place on the land; for as the demand is merely to entitle the lessor to what he has in justice an undoubted right, a remedy for his rent, the law is not so strict, and it is sufficient if made any where upon the land. *Co. Lit. 135.*

And *note*, in making a demand for rent, whether previously to distress or to a re-entry, care must be taken to demand the *precise* sum due, and the time when it became due must be mentioned, for if but a penny more or less than the sum due be demanded, or if it be demanded up to a wrong time, the demand will stand for nothing. And it must be made by a person properly authorized, or it will be of no avail, in respect to which it has been held, that a demand by the clerk of the lessor's attorney, coming by his master's orders only, is not a sufficient authority. *1 Esp. Ca. 115.*

#### 4. Of Tender and Refusal of Rent.

Tender of rent is the producing and offering to pay it, at the time and place when and where it is payable; and if it be refused, the refusal may be pleaded in bar of any action for non-payment, and save the costs of suit.

Where tenders  
to be made.

If no particular place is mentioned in the lease where the rent is to be paid, it must be tendered on the land, or in the house or room from which it issues, (unless it be due to the king, when it must be paid either into his exchequer, or to his receiver in the country). *Co. Lit.* 201.

A tender of rent at the proper time and place will save a distress, or entry, or other condition in the lease, though the landlord refuse to take it, the tenant having done all that he was bound to do; the landlord, however, may still maintain an action for debt, or of covenant for his rent, but shall recover no damages for non-payment. 3 *Salk.* 344. 1 *Vent.* 21. 1 *Show.* 130.

What a good  
tender.

Where tender is made to prevent a forfeiture, the whole rent due must be tendered (except land-tax), unless deductions are allowed to be made by the lease. 30 *Geo.* 2. c. 3. *Co. Lit.* 202.

And tender of the residue, after deducting the expence of repairs which the landlord was bound to do, is a sufficient tender. 2 *Anstr.* 575.

Tender of rent after distress is impounded, is insufficient, for it is then in the custody of the law. 5 *Term Rep.* 432.

If the rent be tendered in a lump, it is a good tender, for it is the receiver's business to count it out and see that it is right. 5 *Term Rep.* 115.

Tender in bank notes is a good tender, unless objection is made to them at the time. *Ibid.*

### 5. Of Acceptance of Rent.

Acceptance of  
rent.

If a landlord accept the last quarter's rent when there are arrears on a former quarter, he precludes himself from demanding the arrears, and it is said that no proof will be admitted to shew that they are unpaid. 3 *Co.* 65. but *quære*, and see 2 *Term Rep.* 366. 1 *Esp. Ca.* 173.

After forfeiture  
of lease.

Acceptance of rent after the lease is forfeited, (with notice of the forfeiture) will do away the forfeiture and re-establish the lease, because the lessor's accepting the rent sufficiently shews his will that the lease should continue, he not being entitled to the rent but by the lease. *Coup.* 803, 483. 2 *Term Rep.* 425; but otherwise, if there was no notice. 1 *Show.* 341. — note (c), and see *Salk.* 259. 3 *Co.* 64. a.

And for the same reason, bringing an action for the rent, is held to be equally a waiver of the forfeiture,

for it  
lease a  
W

years r  
age, b  
before  
avoid

If a  
knowi  
or hav  
the pri  
action  
can do

*Co.* 24

If l  
under  
247. b  
ing th  
Jul. 11

Acc  
sequent  
expired  
be left  
stances  
not.

Acc  
life, a  
tain da  
only c  
1 *Term*

6

Hav  
deman  
procee  
where  
ineffec

Ren  
2. By c

1. B  
lessee's  
and the  
at the c  
in all

for it is an acknowledgment that the covenants of the lease are subsisting. *Esp. Ni. Pri.* 463.

We have seen that if an infant under the age of 21 years make a lease, he may avoid it when he attains that age, but if at his full age he accept of rent, (unless due before) he confirms the lease, and cannot afterwards avoid it. *Plow.* 418.

If a lessor accept of rent from his lessee's assignee, knowing of the assignment, he cannot afterwards distrain or have an action of debt against the lessee for rent, for the privity of contract is destroyed; but he may bring an action on the lessee's covenant, for no implication of law can do away an express and unconditional covenant. 3 Co. 24.

If lessee accept *single* rent after *double* rent is incurred under 4 Geo. 2. c. 28. he waives the double rent. *Camp.* 247. because the double rent is a penalty, and by accepting the rent, the party waives the penalty, per *Aston. Jus. Ib.* (*see Notice to Quit*). After notice to quit.

Acceptance of rent for the occupation of the land subsequent to the time when notice to quit had been given and expired, is not of *itself* a waiver of the notice, but it will be left to the jury to consider, under all the circumstances, whether the notice was intended to be waived or not. *Camp.* 243, 483, 803.

Acceptance of rent after the expiration of an estate for life, and of a notice given to the tenant to quit on a certain day, was held not to be a waiver of the notice, but only evidence of the tenant's holding from year to year. 1 Term Rep. 161.

#### 6. How Rent in Arrear may be recovered.

Having enquired pretty fully concerning the reservation, demand, tender, and acceptance of rent, we shall now proceed to consider how rent in arrear may be recovered where no tender has been made, and demand has been ineffectual. Recovery of rent.

Rent in arrear may be recovered, 1. By action at law, 2. By distress on the premises, 3. By ejectment.

1. *By action or suit at law*; which may be either on the lessee's covenant for payment, or in an action of debt: and these may be either at the common law or by statute—By action.  
at the common law the distinction is that *covenant* will lie in all cases where there remains a privity of estate be-

tween the tenant and the lessor, and *debt*, where the privity of estate is gone, and privity of *contract* only remains; but this is, in certain cases, altered by *statute*, and *seems* not to have been always very *accurately* observed by the courts.

On statute 32  
H. 8.

By stat. 32 Hen. 8. c. 37. "*Executors or administrators of tenants in fee-simple, fee-tail, or for life, shall have action of debt for arrears of rent due in the life-time of their testators or intestates.*"

8 Anne, c. 14.

Formerly no action of debt could be maintained against a tenant for life, for rent reserved, because both the land itself, and the chattels thereon, were pledges for the payment of it; but now by stat. 8 Anne, c. 14. "Any person having rent in arrear upon any lease for *life* or *lives*, may bring action of debt for such rent, as if the same were due on a lease for years."

4 Geo. 2.

By 4 Geo. 2. c. 28. "*Tenants holding lands or tenements after the expiration of their leases, or terms, and notice given them to quit, shall pay double rent for the same, to be recovered by action of debt.*"

11 Ibid.

By 11 Geo. 2. c. 19. "Where any tenant for life shall die before or on the day on which any rent was reserved, upon any demise which determined on the death of such tenant for life, the executors or administrators of such tenant for life may, in an action on the case, recover of the under-tenants, if such tenant for life die *on* the day on which the same was made payable, the *whole*; or if *before* such day, then a *proportionate part* of such rent: before which statute if tenant for life died before the day whereon the rent became due, such rent was not recoverable.

And by the same stat. "Where the demise is not by deed, the landlord shall recover reasonable satisfaction in an action on the case for use and occupation; and if on such trial any rent shall appear to have been agreed upon, it shall be evidence of the quantum of damages."

Action by the  
common law.

An action of debt will lie at the common law also for arrears of rent due on leases for years or at will. *Co. Lit.* 47.

But it has been doubted, whether debt will lie for rent against a copyholder, particularly unless the lord, by conveying away the manor, has lost his remedy by distress. Vide 1 *Roll. Abr.* 374. *Gilb. Ten.* 308.

And if a penalty be given by the lease, in case of non-payment of rent, an action of debt will lie to recover it. *Ibid.* 162.

Act  
ter aff  
tate is  
vid. *Ib.*

Debt  
due b  
*Ibid.*

The  
coven  
ruptcy

Not  
that th  
69.

Not  
digit,  
coven  
and As

Act  
brough  
debt, th

If r  
be laid  
execut

of the  
is chan

only.  
reason,  
brough

debt by  
165.

An  
Term

Dist  
posse  
injured  
mitted.

It is  
nalties,  
law the  
remedy  
subject,  
and exp



Action of debt will lie against a lessee for rent due after assignment of his term; for though the privity of estate is gone, privity of contract remains. 3 Co. 22. *sed vid. Ibid.* 24.

Debt will lie *after* the expiration of the lease, for rent due *before*, the privity of contract still remaining. 2 *Ibid.* 227.

The bankruptcy of a lessee is no bar to an action of covenant brought against him for rent due since the bankruptcy. 4 *Term Rep.* 94. Bankruptcy is a bar.

Nor is infancy a bar to an action of *assumpsit* for rent, so that the infant be of age when action brought. 2 *Bull.* 69. 3 *Bur.* 1717.

Nor is the sale of the lease under writ of *feri facias* or *digit*, or the forfeiture of it by attainder, a bar to such covenant. 4 *Term Rep.* 94—see also *Tit. COVENANTS and ASSIGNMENT.*

Actions of *covenant* for rents we have seen, must be brought where the *lands lie*. But in respect of actions of *debt*, there are these distinctions:

If the action be against the *original lessee*, the venue may be laid *either* where the lands lie *or* where the deed was executed, but if it be against the assignee of an *assignee* of the *lessee*, it must be laid where the lands lie, because *he* is chargeable in debt by reason of the privity of estate only. 2 *Salk.* 651. 2 *Stra.* 776. And for the same reason, debt against the *executor* of the lessee must be brought where the lands lie. 2 *Lev.* 80. And so too in debt by the assignee of the lessor against the lessee. 1 *Wils.* 165.

An *assumpsit* also, it has been held, will lie for rent. 1 *Term Rep.* 378. *Esp. Ni. Pri.* 21.

### Of DISTRESS for Rent in Arrear.

Distress is the taking of a personal chattel out of the possession of the wrong doer into the custody of the party injured, to procure a satisfaction for the wrong committed. 2. By distress.

It is given by various statutes for the recovery of penalties, rates, and other duties, and is at the common law the most usual, and in general, the shortest and best remedy for recovering rent in arrear. In considering this subject, it will therefore be proper to be pretty minute and explanatory; in order to which we shall enquire:

1. Who may make distress for rent in arrear, and who may not.
2. Of what things distress may be taken, and of what not.
3. Of the time and manner of making distress.
4. How a distress is to be disposed of when taken.
5. How it may be replevied or avoided; and conclude with,
6. Some practical directions in making a distress.

1. *Who may distrain for Rent in Arrear, and who may not.*

Who may distress.

By the common law, and the various statutes made in favour of this species of remedy for recovery of rent, all persons having the reversion or remainder of lands, &c. after the determination of the particular estate or existing term therein, may of common right distrain for rent in arrear without any clause of distress for that purpose contained in the lease; as if one seized in fee make a lease thereof, saving to himself the reversion, and reserving rent, or other services, the law gives him a remedy for the same by distress, without any express provision for that purpose; but if he save not to himself the reversion, he cannot distrain of common right, but must reserve a power of distress in the lease. *Co. Lit. 142. Cro. Eliz. 636.*

Executors and administrators.

By 32 Hen. 8. c. 37. "the executors and administrators of tenants in fee-simple, fee-tail, and for term of life, may distrain for rent due in the life-time of their testators and intestates, so long as the premises charged therewith continue in the possession or seizin of the tenant, who ought to have paid such rent, or any other person claiming from the same tenant by purchase, gift, or descent, in like manner as their testator, or intestate might have done."

Husbands in right of their wives.

And by the same stat. § 7. a husband having such lands or tenements, as aforesaid, in right of his wife, may distrain for rent in arrear, after his wife's decease, as if she were living.

On this statute, it has been determined, that it extends to no persons or estates, but those particularly named in it, and not to those standing merely in a similar situation. *Bul. Ni. Pri. 56.*

It should not seem therefore to extend to the executors of a grantee of a rent charge for *years*, (as estates for years are not named in the statute). *Cro. Car.* 471—but where an executor distrained on a lease for *years*, for rent due to his testator, it was held to be good. *Bul. Ni. Pri.* 57.

Nor does it extend to rents reserved on copyholds, those not being mentioned in the statute. *Yelv.* 135.

And the statute gives no new right to the executor, which the testator had not whilst living, if therefore he had by any means deprived himself of the privilege of distraining, it will not be revived in the executor. *Co. Lit.* 162. b.

And so too, distress, under the words of the statute, must be made whilst the lands remain in possession of the tenant from whom the rent was due, or of those claiming under him, and not afterwards. *Ibid.* and *Cro. Eliz.* 547.

And by stat. 8. An. c. 14. "Rent in arrear may be distrained for, though the lease whereon it is reserved be determined, so that the distress be made within six months after such lease has expired, and during the continuance of the landlord's title and tenant's possession."

Distress after expiration of lease.

By 4 Geo. 2. c. 28. § 6. "In case any lease shall be surrendered in order to be renewed, and a new lease executed by the chief lord, the new lease shall be valid without the surrender of the under-leases, and the same rents and duties, and the like remedies, shall be had as if the former lease had been continued," before which statute all under-leases were vacated by a surrender of the original lease.

Renewal of lease.

And by 4 Geo. 2. c. 28. "Bodies politic and corporate shall have the like remedy by distress for rent as other persons, which they could not in common law."

Bodies politic.

Also a mortgagee after having given notice of the mortgage to the tenant in possession, under a lease granted previous to the mortgage, being entitled to the rent due at and after the time of such notice given, may make distress for the same. *Doug.* 279, 266.

Mortgagee.

It was doubted whether an annuitant having a term for years vested in him, (though with power of distress) to secure the payments of the annuity, could distrain for arrears of the annuity, but held that he might, for the grantor of the annuity is, during the term, as it were tenant to the grantee to the amount of the annuity. 2 *Black. Rep.* 1326.

Annuitant.

Lord of manor  
in respect of  
copyholds.

The lord of the manor may distrain of common right, for all services arising from the tenure, as homage, fealty, rent, suit at court, and the like: but this distress cannot be sold, but only impounded till satisfaction be made, or the right of distraining be contested by replevin. *Gilb. Dist.*

2. 3 *Black. Com.* 13.

He cannot, however, distrain for *fines*, unless authorized by special prescription. II *Co.* 45. a.

And the services or rent for which the lord may distrain, must be *certain*, or such as may be reduced to a certainty, otherwise the lord cannot on avowry recover damages for non-payment, or non-performance, for a jury cannot determine the damage he has sustained. *Co. Lit.* 96.

As to heriots.

As to heriots, which are of two sorts, *heriot-service*, and *heriot-custom*, there is this distinction; a *heriot-service* being due on a special reservation, and therefore little different from a mere *rent*, may be either seized or distrained, but a *heriot-custom* being no reservation, but depending intirely upon usage and custom, cannot be distrained. *Co. Cop.* 24.

And in the case of *heriot-service*, the lord may distrain generally, and take any beast of the tenant; but for *heriot-custom*, he must take the very beast itself, and not another as a distress for it. *Cro. Eliz.* 589. *Cro. Car.* 260.

The tenant must be *owner* of the heriot, or it cannot be due, therefore no heriot can be taken on the death of a feme covert, for she cannot be owner of any personality, which a heriot is. 4 *Leo.* 239.

Who cannot  
distrain.

A lessee who has assigned his term cannot distrain for rent, because the reversion is not in him, but if by granting an *under-lease* only, he reserve the reversion, he may distrain. 2 *Wils.* 375.

Nor can a person having a fee farm rent, distrain for it, unless the case be within the stat. 4 Geo. 2. c. 28. § 5. See *Doug.* 624.

## 2. Of what things Distress may be taken, and of what not.

Of what distress  
may be taken.

It may be said, in general, that distress may be taken of all goods and chattels personal, found on the premises demised; and that, whether they be the property of the tenant or of a stranger; for great delay and fraud might be



suffered by the landlord, if he were obliged first to prove that the goods actually belonged to his tenant, or to refute every claim made upon them by others, before he could take them in distress. And if the goods be the property of a stranger, he has his remedy over by action against the tenant. Our shorter way therefore will be to enquire, what things, by the policy of the law, are excepted from this rule, and therefore *not* distrainable, than to enumerate all the individual things which *are*: it may be proper, however, just to notice some things, that though distrainable now, were not so at the common law.

And first, corn in sheaves, or hay in cocks, or in a barn, could not at common law be taken in distress for rent; because a distress being formerly considered merely as a *pledge*, to be detained till satisfaction made, nothing could be distrained, which from its nature could not be returned again to the owner in the same state as when it was taken; and corn in sheaves, or hay in the cock, cannot be removed without some loss or damage.

Things not distrainable at common law, but made so by particular statutes.

But this exemption having been found to encourage tenants to withhold their rent, it was provided by stat. 2 Will. 3. c. 5. "That it shall be lawful for any person having rent in arrear on any demise, lease, or contract, to seize any sheaves or cocks of corn, or corn in the straw, or hay lying upon any part of the land charged with such rent, and to detain the same in the place where it shall be found, in the nature of a distress, until the same shall be replevied or sold."

Corn, &c. in sheaves.

Neither could corn, &c. *growing*, be distrained till lately, because of the rule of law, that nothing can be taken in distress, which is so fixed to the freehold, as to become as it were a part of it: but by stat. 11 Geo. 2. c. 19. it is enacted, "That every landlord may take as a distress for arrears of rent, all sorts of corn, or other products whatsoever, which shall be growing on any part of the demised premises, and the same may lay up, when ripe, in the barn or other proper place on the premises so demised or holden."

Corn growing.

And by the same statute it is provided, that a landlord may distrain for arrears of rent any cattle or stock of his tenant, depasturing upon any common appendant or appurtenant to the premises demised.

Cattle on common.

We now proceed to enumerate such things as are exceptions from the general rule we have before laid down, and therefore *not* distrainable for rent arrear. And as

Things still exempted from distress for rent.

every thing which is distrained is presumed to be the property of the tenant, it follows that such things wherein no man can have an absolute or valuable property, are not distrainable.

Animals of a wild nature.

Therefore dogs, cats, hares, rabbits, poultry, fish, or other things *feræ naturæ*, or of a wild nature, are exempt from distress. *Co. Lit.* 47. *2 Inst.* 133.

But deer kept in a private inclosure are held to be distrainable, as being reduced to a kind of valuable stock. *3 Black. Com.* 7.

Things in the way of trade.

Such things as are on the premises in the way of the tenant's trade, as horses in a smith's shop, or in a common inn; corn at a mill to be ground; materials in a weaver's, or cloth and garments in a taylor's shop, are also exempted; these things being protected for the general benefit of trade. *Co. Lit.* 47. *Dy.* 312. *4 Term Rep.* 569. On this latter principle it is said, that *sheep* cannot be distrained whilst any other distress is to be had. *2 Inst.* 133.

Things at an inn.

Also the cattle and goods of a guest or traveller at an inn are free from distress. *3 Bur.* 1497.

Implements of a man's trade.

So the tools and implements of a man's trade, as the books of a scholar, the axe of a carpenter, the loom of a weaver, and the like, are generally held to be privileged from distress for rent, as taking these would not only prevent him from serving the public in his station, but deprive him of the means by which alone he might be enabled to discharge the sum for which the distress was made. *Noy Max.* 66. *2 Show.* 127.

But since the nature of a distress has been altered by the various statutes empowering a sale of the things distrained, this rule is in some degree relaxed; and it has been held by a very late and respectable decision, that the implements of a man's trade are no longer privileged than while he is actually using them; and so long as there is other sufficient distress on the premises: and it was at the same time held, that beasts of the plough are protected only under the same circumstances. *4 Term Rep.* 565.

And agreeably to this decision, it has been held, contrary to the ancient law, that wearing apparel, when not actually upon the back, is distrainable. *1 Esp. Ca.* 206. *Peake's Ca.* 36.

And though things which could not, at the common law, be restored again in the same plight in which they were taken, as milk, fruit, and the like, are generally held to be free from distress, *3 Black. Com.* 10, and there

is not that I know of, any exprefs decision againſt this rule, I ſhould doubt whether it would be now regarded ; for ſince diſtreſs is authorized to be ſold, the former reaſon no longer applies—and ſee *Biffet, v. Caldwell, Peake's Ca.* 36.

Things fixed to the freehold cannot be diſtrained, as chimney-pieces, anvils, mill-ftones, &c. becauſe they are part of the inheritance : nor a mill-ftone, even though removed from the mill, if it be removed for ſome *necceſſary* purpoſe, as to be picked, &c. for it ſtill continues part of the mill ; and ſo it is of a ſmith's anvil on which he works, for it is accounted part of his forge, though it be not actually fixed to the ſhop. *Co. Lit.* 47. 4 *Term Rep.* 565.

Things fixed to the freehold.

What is in the actual uſe of another cannot be diſtrained ; for a diſtreſs, which is in the nature of a pledge, cannot be made of thoſe things which cannot be reduced into the poſſeſſion of the perſon diſtraining ; therefore, the horſe a man is riding, the tool a man is working with, and the like, are for the time privileged by law. *Co. Lit.* 47. 1 *Vent.* 36. 4 *Term Rep.* 569.

Things in uſe.

Nor can money, unleſs it be in a bag, ſo that the ſame individual pieces may be reſtored on the redemption of the pledge diſtrained. 2 *Bac. Ab.* 109.

Money looſe.

Goods in execution, cattle impounded for damage feaſant, &c. cannot be taken in diſtreſs, becauſe they are already in the cuſtody of the law. *Gilb.* 38.

Things in the cuſtody of the law.

We have ſaid that all *goods* found upon the premises may be taken in diſtreſs to whomever they may belong ; but the *cattle* of a ſtranger found on the premises of a tenant, are diſtrainable or not, according to the following reaſonable diſtinctions :

As to the cattle of a ſtranger on tenant's land.

If the cattle break through the fences and commit a treſpaſs by coming upon the land, and this *by default of the owner*, they are diſtrainable *immediately* for the tenant's rent, as a puniſhment to the owner for the wrong committed through his negligence. 1 *Raym.* 168. And ſo if they be turned in with the conſent of the owner. *Cro. Eliz.* 549. 2 *Vent.* 50.

But if it happened from the *tenant's fault* in not repairing hedges which it was his buſineſs to repair, the landlord cannot diſtrain them *until they have been levant and couchant*, i. e. *one night at leaſt upon the land*, (unleſs he has given notice to the owner, and he ſuffers them to remain there) for if the landlord had had the lands in his own hands, he muſt have repaired the fences ; and when he puts in a

lessee, he ought, by covenant, to oblige him to repair, and therefore to allow the landlord to distrain them would in effect be permitting him to take advantage of his own negligence. 2 *Lutw.* 1573.

And by *Treby*, C. J. *Raymond* 168. where cattle escape accidentally, there they are not distrainable till they have been *levant and couchant*; but if they escape by default of their owner, they are distrainable the first minute.

### 3. Of the Time and Manner of taking Distress.

When distress  
to be taken;

not till the day  
after the rent  
reserved;

nor after ten-  
der.

May be made  
within six  
months after  
expiration of  
lease.

Landlord ought  
to distrain for  
the whole at  
once.

But may dis-  
train again.

Distress for rent must be in the day-time, for if made at night it will be bad. *Co. Lit.* 142.

It cannot be made, therefore, till the day after that on which the rent is reserved in the lease; for we have before seen, that though payable, it is not strictly due till midnight of the day upon which it is reserved.

Distress cannot be made after the rent has been tendered: if therefore, the landlord come to distrain, the tenant may, before the distress made, tender the arrears, and if the distress be afterwards taken, it is illegal; and though it be after the distress, if *before* it is impounded, the landlord must deliver up the distress on tender of the rent; and, if he do not, the detainer is unlawful. 2 *Inst.* 107.

By stat. 8 An. c. 14. distress is not confined to the duration of the tenant's lease, but may be made at any time within six months after it expires, so that the tenant be in possession of the premises demised, and the landlord's title to them continues.

And where there is a custom (as in some places it is) for the tenant to leave on the premises his way-going crop till a certain period after the expiration of his term, it has been held, that such crop may be distrained, though the six months have expired. 1 *Hen. Black. Rep.* 5.

The landlord ought to distrain for the whole rent at one time, and not part at one time, and part at another, if there be sufficient at first; and formerly, if he took too little the first time, he could not distrain again, because it was his folly not to distrain sufficient in the first instance. 2 *Lutw.* 1532. But by 17 Car. 2. c. 7. if there is not sufficient distress on the premises, or the landlord mistake in the value of the thing distrained, and take too little, he, his executors, or administrators, may take a second distress to complete his remedy.



In affirmance of the ancient common law, it is enacted by stat. 52 Hen. 3. c. 15. that it shall not be lawful for any manner of cause, to take distress *out of the fee*, in the king's highway, or in the common street, except the king and his officers, having *special* authority so to do. Where distress to be made.

But by stat. 11 Geo. 2. c. 19. landlords may seize as a distress for rent, any cattle or stock belonging to their tenants feeding upon any common appendant or appurtenant to any part of the premises demised.

And though such goods and chattels only as are found upon the land when the distress is made are properly liable for the rent, yet, if the tenant, seeing his lord coming to distrain, drives his cattle off the land, the landlord may follow and distrain them out of the fee, so that he had once a view of them upon the land; for the tenant cannot by his own wrong prevent the landlord of his right. 2 Inst. 132.

And now by 11 Geo. 2. c. 19. "If any tenant for life, or otherwise, of any messuages or other hereditaments, upon the demise whereof any rent is reserved, shall fraudulently convey away from such premises his goods or chattels, to prevent the landlord from distraining, it shall be lawful for every landlord or lessor, (in England) or any person by him lawfully authorized, within the space of 30 days next after such goods shall be so conveyed away, to dispose of the same, as if they had been distrained upon the premises; unless such goods be bona fide sold before such seizure. As to concealing goods, &c.

"And if any tenant or lessee shall fraudulently remove or conceal his goods as aforesaid, every person so offending or assisting in so doing, shall forfeit to the landlord double the value of the goods. or removing them.

"And when the goods or chattels so carried off or concealed shall not exceed the value of 50l. the landlord, &c. may make complaint against such offender, before two justices of the peace of the county, who shall adjudge the aforesaid penalty; and in case the offender shall neglect to pay it, the same may be levied by distress and sale of the goods and chattels of the offender."

By the common law, no person was allowed to break open or throw down any gates or inclosures to make a distress; and the lessor could not, in any case, have entered into the house, or even barn of his tenant, for the purpose of making a distress, unless the outer door had been open. Landlord may break open doors.

But now, by stat. 11 Geo. 2. c. 19. on oath made before a justice of the peace, of a reasonable suspicion, that goods are concealed in any house, or place, fastened to prevent their being taken in distress, it shall be lawful for the landlord, or other person authorized to take a distress for rent, (calling to his assistance the constable or other peace officer of the parish or place where the same are suspected to be concealed), to break open in the day-time, and enter into any such house, &c. and seize such goods, &c. for rent in arrear, in like manner as if they had been in any open field or place.

May seize part  
in the name of  
the whole.

If a landlord seize only a part of the goods, &c. of his tenant for rent, in the name of them all, it will be a good seizure of the whole. 6 *Mod.* 215.

Distress must  
not be excessive.

Distresses ought not to be excessive, but in proportion to the duty distrained for. 2 *Inst.* 106.

Unlawful dis-  
tress,

If a distress and sale be made as for rent in arrear, and it turn out that none was due, the owner may, by 2 Will. & Mary, c. 5. recover double the value of the goods distrained, with full costs.

And if a distress be made without cause, or contrary to law, as if it be taken on the highway &c. the owner may at any time before it is impounded, rescue it, but if it be once impounded he cannot take it, because it is then in the custody of the law. *Co. Lit.* 47. 1 *Raym.* 105.

One distress  
cannot be taken  
for several rents.

One distress cannot be taken for rent due on *several demises*, but a separate distress on the premises subject to the rent, must be made for the particular rent due on each. 2 *Str.* 1040.

Distress not un-  
lawful, though  
irregular.

The many particulars which attend the taking of a distress, formerly rendered it a hazardous proceeding, for if any one irregularity was committed, the whole process was void, and the parties trespassers from the beginning: to remedy which, it was provided by stat. 11 Geo. 2. c. 19. that "Where any distress shall be made for rent justly due, and any irregularity or unlawful act shall be afterwards committed by the party distraining, or his agents, the distress itself shall not on that account be deemed unlawful, nor the party a trespasser from the first, but the person aggrieved shall recover full satisfaction for the special damage sustained by such irregularity, and no more, with full costs of suit."

It has been determined, that no demand of the rent is necessary previous to the distress, even though the words "being lawfully demanded," (which is usual) are in-

serted in the lease, for the distress itself is deemed a legal demand. 7 Co. 28. b.

But where a penalty is given in case of non-payment of rent, and a power of distress reserved for such *penalty*, a demand of the rent must be made before the penalty can be distrained for. *Hob.* 133.

4. *How a Distress is to be disposed of.*

After the distress is made, the first thing to be done by the distrainer is to impound, or secure in some place of safety, the goods, or other things distrained. How distress to be disposed of.

At common law, the distrainer might impound the distress wherever he chose, by which means it often happened, that the owner was at a loss where to find his goods or cattle either to feed or to replevy them; 2 *Inst.* 106. to remedy which inconvenience, it is enacted,

By stat. 1 & 2 Will. and Mar. that no distress of cattle shall be driven out of the hundred, rape, wapentake, or lathe where the same were taken, except to a pound overt within the same shire, and within three miles of the place where taken, nor shall any distress be impounded in several different places. But notwithstanding this statute, it has been held, that where lands lay in two *adjoining* counties, and were under one demise at one entire rent, cattle taken in distress on both lands, might be impounded together in either of the counties. 1 *Raym.* 55; but they must be put in the same pound. 4 *Mod.* 395. Distress cannot be driven out of the county.

By 11 Geo. 2. c. 19. which was made for the benefit and convenience of landlords, it is likewise provided, that "it shall be lawful for any person making distress for rent, to impound the same on such part of the premises as shall be most convenient, and dispose thereof *upon* the same, in like manner as he may do *off* the premises, by virtue of the several acts already in force." May be impounded and sold on the premises.

If the distress be of cattle or other living things, and they are impounded in a common open pound, the tenant is bound to know of them at his peril, but if they be impounded in a pound constructed for the purpose, the distrainer must give notice to the owner where the distress is; in either case, however, the owner must provide them with food: but if they be impounded in a close, or covered pound, as a stable, or the like, then must the landlord or person distraining, provide them with necessities. *Co. Lit.* 47. Open pound.

Covered pound.

Household goods, and such other things as would be damaged by the weather, must be impounded in an inclosed covered pound, otherwise if they be damaged, the distrainer will be answerable for the loss. 1 *Inst.* 47.

Distress must not be used.

Cattle or other things must not be used or worked whilst in the hands of the distrainer, unless it be for the benefit of the owner that they should. On this account it has been doubted, whether a distrainer might milk a cow, because, though the cow should be milked, yet the owner ought to have come before she had been injured. *Cro. Jac.* 148. 2 *Bac. Ab.* 112.

Distress lost.

If the distress die, or be damaged in the pound, without any default of the distrainer, he may make a fresh distress. 1 *Salk.* 248.

Rescue of distress.

By stat. 2 Will. & Mar. c. 5. if the distress, after being impounded, be rescued, any person aggrieved thereby, may recover treble damages and costs against the offender, or against the owner of the goods if they be afterwards found to come to his use or possession; and it has been held on this statute, that the costs shall be trebled as well as the damages. 1 *Raym.* 20.

Escape.

If after distress made of cattle, &c. they escape from the driver in going to pound, and return to the owner, the owner must re-deliver them on demand, or it will be construed to be a rescue. *Co. Lit.* 161.

Formerly, nothing more could be done with things taken in distress for rent (except in the case of the king, and some few other instances) than detain them in the pound till the rent was paid. But this being frequently found to be of little avail,

Distress may be sold if not replevied.

By 2 Will. & Mar. it is provided that where any goods or chattels shall be distrained for rent due on any demise, lease, or contract whatsoever, and the owner shall not, within five days next after such distress taken, and notice thereof, and of the cause of the taking, left at the dwelling house, or other most notorious place on the premises charged with the rent, replevy the same, that then, at the expiration of the said five days, the distrainer may (with the assistance of the sheriff, under-sheriff or constable), cause the goods and chattels so distrained to be appraised by two sworn appraisers, and sold for the best price that can be got for the same, towards satisfaction of the rent for which the said goods and chattels shall have been distrained, and costs and charges of such distress, appraise-



ment, and sale, leaving the overplus, if any, in the hands of the said sheriff, or constable, for the use of the owner, on which statute it has been held, that a personal or verbal notice is sufficient. *12 Mod. 76.*

5. *How a Distress may be replevied or avoided.*

If a distress be taken wrongfully, or without sufficient cause, the tenant, or owner, may by virtue of stat. 52 Hen. 3. c. 21. (commonly called the statute of Marlbridge) apply to the sheriff, or his deputy, who shall grant him a replevin, or restitution of the goods distrained, upon his giving bond with two sureties in double the value of the goods, to try without delay the right of distraining, and to return the distress in case the right should be determined against him: when therefore the sheriff, or his deputy, have received such sureties, they are bound to cause the things distrained to be immediately restored to the possession of the owner.

Replevying a distress.

If therefore the tenant mean to replevy the goods distrained, he must, within five days after notice given him of the distress, go with two housekeepers to the sheriff's office, or if in the country, to a person whom the sheriff has authorized to grant replevies, and enter into such bond, upon which the sheriff will direct a precept to one of his bailiffs, that the goods may be restored to the tenant, to wait the event of the suit in replevin.

It has been held, however, that goods which have been taken *abroad* are not repleviable, though they may have been afterwards brought into England by the party. *1 Show. 91.*

6. *Practical Directions in making a Distress.*

The proper and regular way of making a distress for rent in arrear is, to go upon the premises for which the rent is due, and take hold of some piece of furniture, or other article there, and say, (*if the distress be made by the landlord himself*), "I seize this chair (*or other thing, as the case may be*), in the name of all the goods and effects on these premises, for the sum of £. 20, being *half a year's* rent due to me at *Lady-day last*." (*Or if the distress be made by some person empowered by the landlord*), say, "for the

Directions in making a distress.

sum of £. 20 due to *James Frazer*, esq. the landlord of these premises, at Lady-day last, by virtue of an authority from him the said *James Frazer*, to me given for that purpose. See *Appendix*. No. VII.

An inventory is then to be made of so many of the goods, &c. as it is supposed will be sufficient to cover the rent, and expences of the distress, appraisement and sale, and this inventory, must be served on the tenant, by giving it to him personally, or leaving it upon the premises, with a notice thereto annexed. *Appendix*, Ibid.

The goods may then be immediately removed, which is the safest way, unless the tenant consents to let a man remain in possession of them upon the premises, and then they may remain till the seventh day after the distress made, when they *must* be removed, appraised, and sold, or the distrainer will be a trespasser, unless indeed the tenant expressly requests, and the landlord agree, that still further time be given for payment, in which case the tenant should sign a memorandum, consenting to the landlord's continuing such possession. *Appendix*, Ibid.

If the goods are not replevied, nor the rent paid at the end of the seventh day, or other time allowed, the landlord is to go to the place where the goods are impounded, with the sheriff, or constable, and two sworn brokers, when the sheriff or constable will administer an oath to the appraisers to the following effect, "You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory, (*holding the same in his hand*) according to the best of your judgment."

Then a memorandum thereof is to be written on the back of the inventory, as in *Appendix*, No. VII.

When the appraisers have valued the goods, and an indorsement of their valuation is written upon the back of the inventory, as in *Appendix*, No. VII. the goods are to be sold, and the surplus of the money arising from the sale, after deducting the arrears of rent, and all reasonable charges and expences attending the distress, is to be paid to the tenant.

### *Of Ejectment for Recovery of Rent Arrear.*

By ejectment.<sup>3.</sup>

Ejectment is properly an action by which lands or tenements may be recovered against him who has unlawful possession of them; originally it lay only against a les-

for, the t  
durin  
of le  
and b  
ous r  
on th  
By  
landl  
be in  
for n  
landl  
serve  
in cas  
in po  
messu  
neme  
whic  
shall  
recov  
both  
full c  
after  
"eject  
court  
shall  
Al  
tende  
if the  
no fu  
der c  
had p  
proce  
rity.  
An  
his te  
be de  
tion,  
To  
which  
tical  
sent t  
points

for, reversioner, or stranger, who ousted (i. e. turned out) the tenant from the occupation of land demised to him, during the continuance of his term, but now by a string of legal fictions it is applicable to many other purposes; and by 4 Geo. 2. c. 28. is rendered an easy and expeditious remedy to landlords for the recovery of rent in arrear, on the demised premises in lieu thereof.

By this statute it is enacted, "that in all cases between landlord and tenant, as often as one half year's rent shall be in arrear, and the landlord has a right by law to re-enter for non-payment, and no sufficient distress is to be had; such landlord may, without any formal demand, or re-entry, serve a declaration in ejectment for recovery thereof; or in case the same cannot be legally served, or no tenant be in possession, affix the same upon the door of any demised messuage, or upon some notorious place of the land, tenements, or hereditaments, mentioned in such declaration, which affixing shall be deemed legal service thereof, and shall stand instead of a legal demand and re-entry; and a recovery in such ejectment shall be final and conclusive, both at law and in equity, unless all arrears of rent with full costs be paid, or tendered within six months thereafter.

"Provided that if the tenant, before the trial in such ejectment, pay or tender to the landlord, or pay into court all rent in arrear and costs, all further proceedings shall be void."

All proceedings under this statute will be stayed on tender of the rent and costs. *Bul. Ni. Pri.* 97. And if there has been a tender before service of the ejectment, no further proceedings can be had: thus where on tender of rent the lessor refused to accept it, "because he had put the business into the hands of his attorney," and proceeded in the ejectment, it was set aside for irregularity. 2 *Black. Rep.* 746.

And note, that a landlord must not receive any rent of his tenant after he has brought an ejectment, till the same be determined; if he do, it will be a waiver of the action, and he will be nonsuited. 2 *Bur.* 668.

To enlarge any farther upon this species of action, which consists of many nice and intricate points of practical law, we think useless and improper. In the present treatise we profess to instruct our readers as to those points only, in which, with our assistance, he may safely

Observation.

as for himself; but when we approach to those matters which professional men are alone competent to undertake, to them it is our duty to direct him, as the only guide on which he can with safety depend.

---

## CHAP. IX.

### *Miscellaneous Observations, Cautions, and Directions, relative to the Hiring and Letting of Houses and Apartments.*

THE numerous frauds and deceptions which are daily practised by designing persons, in letting houses or apartments, particularly in the neighbourhood of the metropolis, has induced us to conclude our enquiries with some observations on that subject, in which we shall endeavour to call to mind such directions and cautions as appear to us to be most generally necessary and useful.

Cautions in  
taking houses,  
&c.

The first thing necessary to be done by a person, in taking a house, after being satisfied that the person letting it has a good title, is to examine carefully the covenants and claims in the original lease, and also those in the under lease, if any, to see that the terms upon which the premises have been let, (by which he will in general be bound) are such as he is willing to agree to, or he may possibly find, when too late, that he is tied down by such restrictions as will render the house unfit for his purpose, or likely to involve him in unforeseen difficulties:—he may be restrained from making convenient alterations;—be compellable to rebuild in case of fire, or other accident;—be liable to forfeit his lease, or a penalty, if he attempt to assign over his interest, &c. &c.

It becomes him in the next place, to see that the rent reserved in the original lease, as also the ground rent, and all taxes, are paid up to the time he is to commence possession; for if they are not, he will be answerable for



the arrears, and can recover them only by having recourse to the last tenant, who, perhaps, is not to be found, or may be unable to repay him.

The same caution is necessary in taking unfurnished lodgings, for if the rent of the house be in arrear, either then or at any subsequent period, the furniture of the lodger will be liable to be taken in distress; he should therefore in this, as in all other cases where he holds of a *lessee*, and not of the *original* lessor or owner of the premises, require receipt to be produced of the rent and taxes being duly paid up by the *lessee*, before he advance his *own* rent.

Care should also be taken (by examining the lease and inventory) that fixtures, and other things belonging to the premises, are not paid for together with those belonging to the tenant, for it is not unusual for a landlord to fit up his house with all necessary fixtures and conveniences, in which case they are included in the rent of the house, and not to be paid for separately: if, however, the fixtures have been put up by the tenant, he may remove and consequently sell them, as we have seen, page 22.

Goods and fixtures are generally taken by appraisement. In this case the usual way is for the seller and buyer, each to appoint a sworn appraiser; if these disagree, a third is called in by them, whose decision is final.

It is almost needless to add, that care should be taken that the lease assignment, or other conveyance, be properly drawn and executed according to the rules and observations laid down in the various parts of the present treatise, otherwise the same inconveniences may arise, as we have mentioned above, or the tenant may be evicted for want of a title.

These we deem to be the principal cautions requisite to be observed by those who may have occasion to take an house or lodgings: they are every where highly proper, but peculiarly necessary in the metropolis, where so many needy and artful people are always on the watch to take in the ignorant and unwary.

---

We here finish our considerations on the laws respecting Landlords and Tenants, and we hope they will be

Conclusive observation.

found useful. Upon a subject that comprizes so many heads, on some of which discordant opinions are met with, it is difficult to be in all respects accurate; we trust however, the attention we have paid to our subject has prevented our being otherwise in any material instance.—The next subject of our enquiries will be the laws relating to *Wills and Testaments*, and the office and duties of *executors* and *administrators*; which will compose the *second* division of our intended work; the *third* will comprize the laws respecting *Masters and Servants*, *Apprentices*, and *Journeymen*, and the *fourth* those relating to *Parish Affairs*: All these will be written upon a plan similar to that of the present Treatise, and will complete the design we had in view of presenting the Public with some of the most useful and important heads of the law, under the title of **LAW SELECTIONS**.

*N. B. The whole of the above Selections are now completed, and may be had of the Publisher of the present Volume.*

M  
Squa  
vers,  
to fa  
herel  
take,  
front  
purte  
pation  
Street  
each  
said h  
tenan  
therec  
nistrat

(a)  
only b  
Agree  
N.  
every  
eviden  
except  
value  
the fa  
£. 20.  
should  
done v

## A P P E N D I X

## OF PRECEDENTS.

## No. I. AGREEMENTS.

1. *Memorandum of an Agreement for letting a First and Second Floor, Garret, and Kitchen, unfurnished (a).*

MEMORANDUM, That it is hereby declared and agreed by and between *John Fenton*, of *Devonshire-Street, Queen-Square*, in the county of *Middlesex*, engraver, and *Charles Danvers*, of the *Inner Temple*, gent. in manner following; that is to say, That the said *John Fenton*, hath agreed to let, and hereby doth let, and the said *Charles Danvers* hath agreed to take, and hereby doth take all that the first and second floor, front garret, and front kitchen, with the conveniences and appurtenances thereto belonging, of the house now in the occupation of the said *John Fenton*, situated No. 20, in *Devonshire-Street*, aforesaid, together also with two cellars adjoining to each other under the pavement of the said street, and to the said house belonging, TO HOLD the same with their appurtenances, and the sole and uninterrupted use and occupation thereof unto the said *Charles Danvers*, his executors, administrators and assigns, for the term of twelve calendar months,

(a) This memorandum, not being a deed, (as being signed only by the parties, and not sealed), must be written upon an Agreement stamp, amounting to 7s.

N. B. By 23 Geo. 3. c. 58. as altered by 35 Geo. 3. c. 30. every agreement, whether obligatory on the parties, or only evidence of a contract, shall be impressed with a 7s. stamp except agreements for leases at rack rent, under the yearly value of £. 5. agreements for the hire of labourers, &c. for the sale of goods; for matters not exceeding the value of £. 20. and agreements in *Scotland*. It is not necessary that it should be stamped before it be signed by the parties; if it be done within twenty-one days after it will be equally good.

## LANDLORD and TENANT.

to commence from the twenty-fifth day of March now next ensuing, at the net yearly rent of thirty-six pounds for the year, payable quarterly on the twenty-fourth day of June, the twenty-ninth day of September, the twenty-fifth day of December, and the twenty-fifth day of March thence next ensuing; and the said *John Fenton* doth agree to paint the second floor of the said demised premises, and have the same fit for occupation by the said twenty-fifth day of March next, or as soon thereafter as may be, and the said *Charles Danvers* doth engage to make punctual payment of the rent hereby reserved, in the manner aforesaid, and to quit and leave the said hereby demised premises at the expiration of the said term of twelve months (notice to quit being given the said *Charles Danvers* at least three calendar months previously thereto) in as good state and condition as reasonable use and wear thereof will permit. As witnesses our hands this second day of March, one thousand seven hundred and ninety-six.

Witness, (a)  
*James Bryant.* }  
*Wm. Day.* } Servants to Mr. Fenton.

*John Fenton.*  
*C. Danvers.*

2. *Memorandum of Agreement for letting a First Floor and Garret, furnished, for Half a Year certain, and from Quarter to Quarter, as long as the Parties shall agree (b).*

MEMORANDUM made this second day of June, 1796, between *Abraham Potts*, of &c. and *Christopher Doe*, of &c. as follows: the said *Ab. Potts* doth let unto the said *Christ. Doe* an entire first floor completely furnished, as the same now is, (which furniture is particularly mentioned in a schedule hereunder written,) being part of the house which he the said *Ab. Potts*, now lives in, situate and being in *King-Street, Bloomsbury*; TO HAVE AND TO HOLD the said premises for and during the term of half a year, to commence from Midsummer-day next ensuing, at and after the rent of fifty pounds per annum, of lawful money of Great Britain, payable quarterly, by even and equal portions, the first quarterly payment thereof to be made on Michaelmas-day next ensuing the date hereof. AND

(a) One witness is sufficient to attest the execution of every species of deeds, though in practice it is usual to have two.

(b) This must be written on a 7s. Agreement stamp.



IT IS FURTHER AGREED by and between the parties hereto, that the said *Christ. Doe*, after the expiration of the said term of half a year, may hold and enjoy the said premises hereby let unto him, from quarter to quarter, so long as both parties shall agree, at the same rent as aforesaid. AND IT IS ALSO FURTHER AGREED between the parties, that when the said *Christ. Doe* shall quit the said premises hereby demised to him, he shall and will leave the furniture and other things mentioned and set forth in a schedule, or inventory thereof hereunder written, in as good state and condition as the same now are, reasonable and proper use thereof only excepted. As witness our hands the said second day of June, one thousand seven hundred and ninety-six.

Witness,  
*W. Simpson.*

*Ab. Potter,*  
*Christ. Doe.*

*An Inventory to which the above Agreement refers (a).*

In the front room, one pair of stairs.

- 8 Mahogany chairs with hair bottoms
- 1 Mahogany dining table
- 1 Pembroke table
- 2 Fire screens
- 3 Festoon cotton window curtains
- A Wilton carpet, 3 yards by 2½

In the back room, ditto.

A four-post bedstead and bed, cotton furniture, white counterpane, 2 blankets, 2 pair sheets and mattresses. (and so on as the case may be).

Witness,  
*W. Simpson,*

*Ab. Potter.*  
*Christ. Doe.*

3. *An Agreement for a Lease of a Piece of Ground and Orchard, for the Term of five Years (b).*

MEMORANDUM made this tenth day of December, in the year of our Lord one thousand seven hundred and ninety-six, between *John Sykes*, of *Eling*, in the county of *Surry*, gent. and *William Fleet*, of the same place, gent. as follows: that is to say,

- (a) This inventory must be written on a 2s. 6d. stamp.
- (b) This must be written on a 7s. Agreement stamp.

## LANDLORD and TENANT.

The said *John Sykes* in consideration of the rent and agreements hereinafter mentioned, doth agree to demise and let, by a good and sufficient lease in the law thereof, unto the said *William Fleet*, on or before the      day of      now next, ALL that field, piece, or parcel of meadow ground, containing by estimation six acres, more or less, situate at *Eling* aforesaid, now in the occupation of the said *William Fleet*, as tenant at will thereof, adjoining to a house and grounds now or late of *Peter Mellish*, esq. and also all that orchard adjoining to the aforesaid field, containing by estimation two acres, more or less, late in the occupation of *Humphry Nichols*, gardener, together with all ways, paths, passages, waters, water-courses, easements, privileges, and appurtenances whatsoever, to the same belonging or appertaining, or therewith held, used, occupied, possessed, or enjoyed, reputed, taken or known as part, parcel, or member thereof, or any part thereof, TO HOLD the same for the term of five years from Lady-day last past, at and under the yearly rent of twenty pounds, payable quarterly; the first payment thereof to be made at Midsummer now next ensuing the date thereof; and by the said lease full and free liberty shall be granted unto the said *William Fleet*, to lop and plash the trees and hedges on the said demised premises, at seasonable and convenient times, and also liberty to erect upon the same any shed or sheds, or other convenient buildings during the said term, he the said *William Fleet*, from time to time scouring and cleaning the ditches, and repairing and making good the fences, hedges, and gates, upon and belonging to the said premises, AND the said *William Fleet* doth agree to take the aforesaid premises for the said term, and the said rent, payable in manner aforesaid, and to execute a counterpart of the lease to be thereof granted. In witness, &c.

Witness,  
*Giles Moon.*

*John Sykes.*  
*Wm. Fleet.*

---

4. *An Agreement between a Landlord and Tenant for building a new House in the room of an old one to be pulled down, —the present Lease to be surrendered, and a fresh one granted for the remainder of the subsisting Term (a).*

ARTICLES of agreement entered into this fourteenth day of February, in the year of our Lord one thousand seven hundred

---

(a) This agreement being under the seal of the parties, must be written on a Deed stamp, amounting to 7s.

and ninety-four, BETWEEN *Robert Kent*, and *John Key*, of *Cecil-Street*, in the *Strand*, esquires, (executors and trustees named in the last will and testament of *Richard Comins*, late of the same place, esquire, deceased, for and on behalf of *Roger Comins*, an infant), of the one part, and *Elizabeth Manners*, of *Sloane-Street*, in the county of *Middlesex*, widow, of the other part.

WHEREAS the said *Elizabeth Manners* is tenant for the remainder of an unexpired term of thirty-one years, commencing on the twenty-fifth day of December, which was in the year one thousand seven hundred and eighty-one, of a certain messuage, or public house, known by the name of the Goose and Gridiron, in *Harpur-Street*, in the said county of *Middlesex*, (part of the estates of the said infant), at the net yearly rent of twenty-four pounds, late in the occupation of *Thomas Ball*, as under-tenant of the said *Elizabeth Manners*, at the net yearly rent of forty pounds. AND WHEREAS the said messuage has lately been irreparably damaged by accidental fire, and the said *Robert Kent* and *John Key* being advised that it is necessary and proper under the circumstances of the case, the same should be rebuilt for the said *Elizabeth Manners*, on the terms and conditions herein after mentioned, have agreed to rebuild the same accordingly. Now WITNESS these presents, that it is hereby agreed by and between the said *Robert Kent* and *John Key*, on the part of the said infant as aforesaid, and the said *Elizabeth Manners*, that they the said *Robert Kent* and *John Key*, or the survivor of them, his heirs, executors, or administrators shall and will, on or before the twenty-fifth day of December now next ensuing, or as soon thereafter as may be, erect and finish, or cause to be erected and finished, a good and substantial private brick dwelling house, upon the site, and in the room of the said public house so damaged by fire as aforesaid, with all necessary appurtenances thereto, agreeably to a plan and elevation thereof accompanying these presents, marked with the letter A. and signed by the parties hereto, (the said house so to be erected, to be finished as to inside conveniences, ornaments, and decorations thereof, according to the directions of *Henry Hammond*, of *Sloane-Street* aforesaid, on the part of *Elizabeth Manners*, her executors, administrators, or assigns, and *Philip Norman*, of *Castle-Street*, *Holborn*, on the part of the said *Robert Kent* and *John Key*), and also shall and will, when the said house with the appurtenances shall be so erected and finished, grant a good and effectual demise or lease thereof unto the said *Elizabeth Manners*, her executors, administrators, and assigns, TO HOLD unto the said *Elizabeth Manners*, her executors, administrators, and assigns, from the said twenty-fifth day of December now next ensuing, or such other time as aforesaid, for the term of nineteen years thence next ensuing, at and under the yearly rent of five pounds for every one hundred pounds, which shall be necessarily and reasonably expended by the said

## LANDLORD and TENANT.

*Robert Kent* and *John Key*, or the survivor of them, his heirs, executors, or administrators, in erecting and finishing the same, fit for the reception and habitation of the said *Elizabeth Manners*, or her assigns, and which rent is to be clear of all manner of taxes and assessments whatever, land-tax only excepted: the amount of such expenditure to be ascertained and settled by the said *Philip Norman* on the part of the said *Robert Kent* and *John Key*, and the said *Henry Hammond* on the part of the said *Elizabeth Manners*, or such other persons being builders or surveyors, as the said *Robert Kent* and *John Key*, on the one part, and *Elizabeth Manners*, on the other, shall severally appoint, and in case of difference between the said builders or surveyors, then by one other person or umpire, to be by them appointed, the determination in either case to be made by the said appointees, or umpire, within fourteen days after reference to them made, the said rent to be paid and payable half yearly, on the days and times whereon the rent in the now subsisting lease of the said *Elizabeth Manners* is reserved. And the said *Elizabeth Manners*, for herself, her executors, administrators, and assigns, doth consent and agree to accept and take the said house and premises so to be erected and finished as aforesaid, on the terms and conditions before mentioned, and to execute a counterpart of the lease to be to her and them granted thereof, and to surrender and give up her said now subsisting lease, and all her estate and interest therein. AND it is further agreed between the said parties, that the said *Elizabeth Manners* shall be discharged from the payment of rent reserved on her said now subsisting lease, from Michaelmas last until the said twenty-fifth day of December next, or such other time thereafter as the said house to be erected, shall, with the appurtenances, be in a tenantable condition, and fit for habitation; and in the said lease so to be granted of the said new erected house and premises, there shall be contained an allowance of land tax in favour of the said *Elizabeth Manners*, and all such other covenants, clauses, provisoes, and agreements (such only excepted as may tend to vary the terms of this agreement,) as are inserted in the now subsisting lease of the said *Elizabeth Manners*.

In Witness whereof, the said parties to these presents have hereunto set their hands and seals, the day and year first above written.

*Robert Kent.* (Seal.)  
*John Key.* (Seal.)  
*Eliz. Manners.* (Seal.)

Sealed and delivered by the said  
*Robert Kent* and *John Key*, in  
 the presence of us  
*Peter Simpkins, Temple-Bar.*  
*Samuel Fleet, Great James-Street.*

T  
third

(a)  
(b)



Sealed and delivered by the said E. Manners,  
in the presence of *Henry Jacobs, Sloane-Street, Chelsea.*  
*Samuel Fleet.*

5. *An Agreement for Tenant to surrender Public House to his Landlord within a given Time, (the said House being at present in Mortgage) (a).*

MEMORANDUM of an agreement made the eleventh day of December, one thousand seven hundred and ninety six, BETWEEN *Thomas Verts*, now or late of the *Lion and Dog Public House*, in *Carey-Street*, near *Lincoln's Inn*, *London*, and *Elizabeth Matloch*, of *Sloane-Street, Chelsea* in the county of *Middlesex*, Widow, as follows:—The said *Thomas Verts* DOTH hereby covenant and agree to assign and surrender, or procure to be assigned and surrendered unto the said *Elizabeth Matloch*, on or before the twentieth day of January, now next coming, the messuage or tenements, and public house, called the *Lion and Dog*, now or lately tenanted by him in *Carey-Street* aforesaid, with the appurtenances (freed and discharged of and from all mortgages and other incumbrances), and all his term, estate, and interest therein. AND the said *Elizabeth Matloch* doth hereby agree to accept the same (all rent and arrears of rent being paid up to Christmas next), and to discharge the said *Thomas Verts* from his covenant to repair the said house and premises. As Witness our hands the day and year above written.

Witness,  
*Thomas Poole.*

*Thomas Verts.*  
*Elizabeth Matloch.*

No. II. LEASES.

1. *Lease of a House in London, with all proper Covenants (b).*

THIS Indenture made the first day of January, in the thirty-second year of the reign of our sovereign Lord *George* the third, by the Grace of God of Great Britain, France, and Ire-

(a) This must be written upon a 7s. Agreement stamp.

(b) To be written on a 7s. Deed stamp.—This lease and the

Parties.

land, King, Defender of the Faith, and so forth, and in the year of our Lord one thousand seven hundred and ninety-six, BETWEEN *James Fenwick*, of *Dulwich*, in the county of *Surry*, gent. of the one part, and *Thomas Carr*, of *Fleet-Street*, in the city of *London*, Grocer, of the other part, WITNESS. EITH that for and in consideration of the yearly rent herein after reserved, and of the covenants, provisoes, and agreements herein after contained by and on the part of the said *Thomas Carr*, his executors, administrators, and assigns, to be paid, observed, and performed, he the said *James Fenwick* HATH demised and leased, and by these presents DOTH demise and lease (a) unto the said *Thomas Carr*, his executors, administrators, and assigns, ALL (b) that messuage or tenement and dwelling house, situated and being on the north side of *Fleet-Street*, in the city of *London*, now or late in the occupation of *John Bate*, his under-tenant, assignee, or assigns, and abutting on the east end thereof, on a messuage or tenement, now or late in the occupation of *Thomas Sell*, his assignee, or assigns, and on the west end thereof, on a gate-way leading to certain premises known by the name of the *Sawan-Lun*, now or late in the occupation of *Elizabeth Cole*, her assignee, or assigns, together with all rooms, vaults, cellars, areas, yards, ways, passages, drains, pipes, water-courses, advantages, conveniences, hereditaments, and appurtenances whatsoever, to the said messuage or tenement and premises belonging or in any wise appertaining. TO HAVE AND TO HOLD the said messuage or tenement and premises hereby demised or mentioned so to be, with their appurtenances, unto the said *Thomas Carr*, his executors, administrators, and assigns, from the twenty-fifth day of December last past, for and during and unto the full end and term of

Demise.

Premises.

General verds.

Haberdan for  
21 years.

next, with the following assignment, are drawn with peculiar neatness and perspicuity, all unnecessary circumlocutions are being purposely omitted; they were settled in their present form by an eminent Conveyancer now in practice, who was himself the landlord of the premises.

(a) The words usually inserted in leases are, "Demise, lease, set and to farm let." But the third of these words is obsolete, according to its modern acceptation, and the last more applicable to a lease of *lands*. Sometimes the word "grant," precedes the word "demise," in which case the covenants for the title and for quiet enjoyment need not, in strictness, be inserted, as the legal import of the words "grant and demise," are held to imply those covenants. 4 Co. 80.

(b) The description of the premises should be as full and accurate as possible, to prevent disputes, which might else arise as to the extent of the demise.

twenty-one years thence next ensuing, and fully to be complete and ended (determinable nevertheless at the end of the first seven or fourteen years thereof, upon such notice for that purpose being given, as herein after is mentioned). He the said *Thomas Carr*, his executors, administrators, and assigns, YIELDING AND PAYING yearly and every year during the said term, for such tenure and occupation of the said premises, unto the said *James Fenwick*, his executors, administrators, and assigns, the net yearly rent or sum of fifty pounds of lawful money of Great Britain, the same to be paid by equal quarterly payments on the several days following: namely, on the twentieth-fifth day of March, the twenty-fourth day of June, the twenty-ninth day of September, and the twenty-fifth day of December, in every year (save and except all times during the said term, such proportionable part of the said yearly rent of fifty pound, as shall or may at any time or times grow due, during such time as the messuage or tenement hereby demised, shall without the hindrance of the said *Thomas Carr*, his executors, administrators, or assigns, remain uninhabitable by reason of accidental fire), and to be clear of all and all manner of parliamentary, parochial, and other taxes, assessments, rates, and deductions whatsoever; the first quarterly payment thereof to begin and be made on the twenty-fourth day of June next ensuing the date of these presents. AND the said *Thomas Carr* doth hereby for himself, his executors, administrators, (a) and assigns, covenant, promise, and agree to and with the said *James Fenwick*, his executors, administrators, and assigns, in manner following, (that is to say) that he the said *Thomas Carr*, his executors, administrators, or assigns, shall and will yearly and every year during the continuance of the said term hereby demised (save and except as aforesaid), well and truly pay or cause to be paid unto the said *James Fenwick*, his executors, administrators, or assigns, the said yearly rent or sum of fifty pounds of lawful money of Great Britain, on the several days, and in the manner the same is herein before made payable. AND ALSO shall and will well and truly pay or cause to be paid all and all manner of taxes, rates, assessments, and impositions whatsoever, parliamentary, parochial, or otherwise (land tax only ex-

Determinable at the end of the first 7 or 14 years thereof.

At the yearly rent of 50l.

Exception as to fire.

Covenant from lessee to pay rent;

and taxes, (except land-tax.)

(a) The present lessor of these premises was himself only lessee of the proprietor of the estate, the tenant therefore covenants with the *executors and administrators* of the lessor, because they are the persons, who in case of his decease would be entitled to the residue of the term; but had the lessor been owner of the inheritance, the tenant must have covenanted with his *heirs and assigns*. This observation will apply to all the subsequent covenants.

Covenant that  
lessee will paint  
outside of house  
every 3d year;

and do all other  
repairs;

and quit at the  
end of the term;

and leave the  
premises in  
good repair, to-  
gether with the  
things men-  
tioned in an  
inventory.

Power for lessor  
to view state of  
repairs,

after notice.

cepted), which now are, or which shall at any time during the continuance of the said term hereby demised, be rated, taxed, assessed, or imposed on the said demised premises, or on any part thereof, or on the said yearly rent hereby reserved, or any part thereof, or on the said *Thomas Parr*, his executors, administrators, or assigns, on account thereof. AND ALSO that he the said *Thomas Carr*, his executors, administrators, and assigns, shall and will at his and their own proper costs and charges, cause to be well and sufficiently painted, all the outside wood and iron work belonging to the said messuage or tenement and premises hereby demised, every third year during the continuance of the said term of twenty-one years, and at his and their like proper costs and charges, shall and will at all times during the continuance of the said term, keep in a good sufficient and tenantable state of repair as well all and singular the glass and other windows, wainscots, rooms, floors, partitions, ceilings, tilings, walls, rails, fences, pavements, grates, privies, sinks, drains, wells, and water courses, as also all and every other the parts and appurtenances of the said messuage or tenement and premises hereby demised (damages happening by casual fire only excepted). AND at the end or other sooner determination of the said term hereby granted, shall and will leave and yield up unto the said *James Fenwick*, his executors, administrators, or assigns, all and singular the same messuage or tenement and premises, with every of their appurtenances, in such good, sufficient, and tenantable state of repair as aforesaid (a), Together with all and every the doors, locks, keys, bolts, bars, chimney-pieces, dressers, shelves, water-pipes, and other things mentioned in an inventory or schedule hereunder written, or hereunto annexed, in as good plight and condition as the same now are (reasonable use and wear thereof and casualties happening by fire only excepted) AND FURTHER that it shall be lawful, for the said *James Fenwick*, his executors, administrators, and assigns, either alone, or with workmen or others, twice in every year (at such times of the year as to him or them shall seem meet) during the said term hereby granted, at seasonable times of the day to enter into and upon the said premises hereby demised, and every part thereof, and there to view and examine the state and condition thereof, notice of such view being at all times previously given unto the said *Thomas Carr*, his executors, administrators, or assigns, one day at least before the same shall take place. And in case any decays or want of reparation be found at any such examination and review, the said *Thomas Carr*, for himself, his execu-

(a) This covenant is not broken by the ordinary and natural decay of the premises.

tors,  
mife  
tors.  
and t  
mont  
him  
these  
if the  
or an  
of tw  
the fa  
being  
execu  
obser  
these  
and a  
then  
be lay  
itrato  
premi  
and t  
and t  
tors,  
cupie  
amov  
and e  
and b  
in co  
ing.  
ecuto  
and a  
minis  
lowin  
execu  
hereb  
coven  
them  
quie  
all ot  
term  
(b) ac  
execu

(a)  
(b)  
acts,  
distur  
nant,



tors, administrators, and assigns, doth hereby covenant, promise, and agree to and with the said *James Fenwick*, his executors, administrators, and assigns, to cause the same to be well and sufficiently repaired and amended within the space of six months after notice thereof in writing shall have been given to him or them for that purpose. PROVIDED ALWAYS, and these presents are upon this express condition nevertheless, that if the said yearly rent or sum of fifty pounds hereby reserved, or any part thereof shall be in arrear and unpaid for the space of twenty-one days next after any of the said days whereon the same is herein before covenanted to be paid as aforesaid (it being first lawfully demanded, or if the said *Thomas Carr*, his executors, administrators, or assigns, shall not well and truly observe and keep according to the true intent and meaning of these presents, all and every the covenants, clauses, provisoes, and agreements, by him and them to be observed and kept, then and from thenceforth in either of the said cases, it shall be lawful for the said *James Fenwick*, his executors, administrators, and assigns, to re-enter into the said hereby demised premises (a), or into any part thereof in the name of the whole, and the same to have again, re-possess, retain and enjoy, as his and their former estate, and the said *Thomas Carr*, his executors, administrators, and assigns, and all other tenants and occupiers of the said premises, thereout utterly to eject and remove, and that from and after such re-entry made, this lease, and every clause and thing herein contained shall determine and be utterly void to all intents and purposes, any thing herein contained to the contrary thereof in any wise notwithstanding. AND the said *James Fenwick* for himself, his executors, administrators, and assigns, doth covenant, promise, and agree to and with the said *Thomas Carr*, his executors, administrators, and assigns, by these presents, in the manner following, (that is to say) that he the said *James Fenwick*, his executors, administrators, and assigns, paying the yearly rent hereby reserved in the manner aforesaid, and performing the covenants and agreements herein contained, and by him and them to be performed, shall and lawfully may peaceably and quietly hold, occupy, and enjoy the messuage or tenement, and all other the premises hereby demised. for and during the said term of twenty-one years hereby granted, without any lawful (b) action, suit, or interruption of the said *James Fenwick*, his executors, administrators, or assigns, or any other person law-

Proviso that  
lessor may re-  
enter on non-  
payment of  
rent, &c.

Covenant from  
lessor that les-  
see shall quietly  
enjoy the de-  
mised premises,

(a) See ante, p. 58. and 6 *Term Rep.* 458.

(b) Though the covenant usually runs as against the lawful acts, &c. of the party, yet any tortious act done with a view of disturbing the possession, will be equally a breach of the covenant. 1 *Term Rep.* 671.

free from the original lease whereby the lessor holds.

Covenant for renewal of lease,

and for determination of this present lease at the end of the first seven or fourteen years thereof, at the option of the lessee.

fully claiming by, from, or under him, them, or any of them (a). And that freed and discharged, or otherwise, by the said *James Fenwick*, his executors, administrators, and assigns, saved harmless and indemnified from the rent and covenants reserved and contained in a certain indenture of lease bearing date the tenth day of August, in the year of our Lord one thousand seven hundred and ninety, whereby the said *James Fenwick* holdeth the said messuage and premises hereby demised from the date thereof for the term of sixty-one years, and from all claims and demands whatsoever in respect thereof. AND the said *James Fenwick* doth hereby further covenant, promise, and agree to and with the said *Thomas Carr*, his executors, administrators, and assigns, that the said *James Fenwick*, his executors, administrators, and assigns, shall and will before the expiration of this present lease, on the request, and at the costs and charges of the said *Thomas Carr*, his executors, administrators, and assigns, grant and execute unto him and them a new and fresh lease of the messuage or tenement, and all other premises hereby demised, with their appurtenances, for the further term of ten years, to commence from the expiration of the term hereby granted, the same to be at the same yearly rent, payable in the like manner, and under and subject to the like covenants, provisions, and agreements (except a covenant for renewal thereof at the end of such further term), as are contained in these presents, such new lease however to be granted and to be valid only on condition that the said *Thomas Carr*, his executors, administrators, or assigns, do execute a counterpart thereof, and also pay unto the said *James Fenwick*, his executors, administrators, or assigns, the sum of twenty pounds of lawful money of Great Britain, at the time of executing the said lease, as a premium for the renewal thereof. AND ALSO that if the said *Thomas Carr*, his executors, administrators, and assigns, shall be desirous to quit the said messuage and premises hereby demised at the end of the first seven or the first fourteen years of the term of twenty-one years hereby granted, thereof, and of such his or their desire shall give notice in writing to the said *James Fenwick*, his executors, administrators, or assigns, six calendar months before the expiration of the said first seven or fourteen years (as the case may be), then and in such case (all arrears of rent being duly paid, and the

(a) Persons claiming under another are those who come in by a privity of title, as heir, executor, or assignee, and though the covenant were in its terms made to extend to all persons whatsoever, yet those seem to be the only persons who would be bound by it. See *Cro. Eliz.* 615. 3 *Term Rep.* 584.

said messuage and all other the premises hereby demised, being in such repair as they are herein before covenanted to be maintained in and left), this lease and every clause and thing herein contained shall at the expiration of such first seven or first fourteen years of the said term of twenty-one years hereby granted, (whichever in the said notice be expressed) determine and be utterly void to all intents and purposes, in like manner as if the whole term of twenty-one years had run out and expired, any thing in these presents contained to the contrary thereof notwithstanding. In witness whereof the said parties have hereunto set their hands and seals the day and year first above written.

*James Fenwick.* (Seal.)

*Thomas Carr.* (Seal.)

Sealed and delivered in the presence of

*William Teers, of Gray's-Inn.*

*Thomas Sykes, Clerk to Mr. Teers.*

2. *Lease of Messuage and Lands in the Country from Tenant for Life, under a Marriage Settlement (a).*

THIS INDENTURE made the twenty-fourth day of March, in the thirty-second year of our Sovereign Lord George the Third, by the Grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, &c. and in the year of our Lord Christ, one thousand seven hundred and ninety-two, BETWEEN *Mary Plumber*, of

(widow of *Christopher Plumber*, late of the same place, Parties.  
Esq. deceased,) of the one part, and *Charles Clay*, of

Gent. of the other part, WITNESSETH that the said *Mary Plumber*, by virtue of a power to her in that behalf given in and by certain indentures of lease and release, dated respectively on or about the twenty-fourth and twenty-fifth day of June, in the year one thousand seven hundred and seventy-two, (being the settlement made on her marriage with the said *Christopher Plumber*, deceased,) and for and in consideration of the rents, covenants, and agreements, herein after reserved and contained on the part of the said *Charles Clay*, his executors, administrators, and assigns, to be paid and performed, HATH demised, leased, and to farm letten, and by these The demise.  
presents DOTH demise, lease, and to farm let unto the said *Charles Clay*, his executors, administrators, and assigns, ALL

(a) This must be written on a 7s. Deed stamp.

Parcels.	that messuage or tenement and farm called the Grange Farm, with the yard, barns, stables, buildings, out-houses and appurtenances thereunto belonging, and also all those several fields, closes, and parcels of arable, meadow and pasture land thereunto belonging, and herein after particularly described (that is to say), ALL that piece or parcel of pasture-ground called the <i>Spring Close</i> , containing by estimation seven acres, be the same more or less, &c. &c. together with all ways, commons, waters, profits, and advantages whatsoever, to the said messuage or tenement, farm and premises, belonging or appertaining.
Exception of timber.	EXCEPT and always reserved out of these presents unto the said <i>Mary Plumber</i> , and her assigns, during such part of the term hereby demised, as she shall live, and from and after her decease, unto such person or persons as shall from thenceforth, during the remainder of the said term, be entitled to the freehold and inheritance of the said premises, all timber and other trees now standing and being, or which shall at any time, during the continuance of this demise, stand or be upon the said demised premises (other than such as are hereinafter agreed to be allowed the said <i>Charles Clay</i> , his executors, administrators, and assigns, for boot), with free liberty of ingress, egress, and regress, for the said <i>Mary Plumber</i> , and her assigns, or such other person or persons as shall be entitled as aforesaid, her and their agents and workmen, with horses, carriages, and otherwise, to and from any part of the said hereby demised premises, to cut down and carry away the said trees, making reasonable satisfaction unto the said <i>Charles Clay</i> , his executors, administrators, or assigns, for any damage he or they may sustain thereby, and also free liberty at all times to view the state of the trees upon the said premises.
Habendum for twenty-one years.	TO HAVE AND TO HOLD the said messuage or tenement, farm, lands, and premises hereby demised or mentioned so to be, unto the said <i>Charles Clay</i> , his executors, administrators, and assigns, from the fifth day of April last past, for and during the term of twenty-one years, from thence next ensuing, and fully to be complete and ended. He the said <i>Charles Clay</i> , his executors, administrators, and assigns, YIELDING AND PAYING for such tenure and occupation of the said premises, unto the said <i>Mary Plumber</i> , and her assigns, or unto such other person or persons as may be entitled as aforesaid, the yearly rent or sum of one hundred pounds of lawful money of Great Britain, the same to be paid by equal quarterly payments on the several days following: namely, on the twenty-fifth day of March, the twenty-fourth day of June, the twenty-ninth day of September, and the twenty-fifth day of December, in every year, by equal portions, the first quarterly payment thereof to begin and be made on the twenty-fourth day of June next ensuing the date of these presents.
Reservation.	AND ALSO YIELDING AND PAYING by like equal portions on the several days aforesaid, an additional
Penalty for ploughing pasture.	



yearly rent or sum of five pounds of like lawful money for every acre, and proportionably for any greater or less quantity than an acre of the pasture or meadow ground hereby demised, which at any time during the continuance of this demise shall be ploughed up or converted into tillage, without the consent in writing of the said *Mary Plumber*, or such other person or persons as shall be entitled as aforesaid, first obtained for that purpose. AND the said *Charles Clay*, for himself, his heirs, executors, administrators, and assigns, doth hereby covenant, promise, and agree to and with the said *Mary Plumber*, her executors, administrators, and assigns, and also to and with the person and persons who shall be entitled to the freehold and inheritance of the premises hereby demised, from and after her decease for the then residue of the term hereby granted his, her, and their heirs, executors, administrators, and assigns, in manner following: that is to say, that he the said *Charles Clay*, his executors, administrators, and assigns, shall and will well and truly pay, or cause to be paid, unto the said *Mary Plumber*, or her assigns, during such part of the said term hereby demised as she shall live, and after her decease unto such person or persons as may then be entitled to the said premises as aforesaid, his, her, or their executors, administrators, or assigns, the said yearly rent or sum of one hundred pounds of lawful money of Great Britain, and also all other the rent and rents, sum and sums of money, herein before reserved, on the days herein before appointed for payment thereof, as the same shall from time to time grow due; the said rents or sums to be clear of all manner of deductions whatsoever, for or on account of any taxes, rates, assessments, or other impositions. AND further that he the said *Charles Clay*, his executors, administrators, or assigns, shall and will, at his and their own proper costs and charges, at all times during the continuance of this demise, maintain and keep the said messuage or tenement, outhouses, and buildings hereby demised, and the walls, hedges, fences, gates, stiles, bridges, and inclosures thereunto belonging, in good and sufficient repair in all respects, damages happening by casual fire only excepted, he and they being allowed rough timber on the stem, bricks, tiles, and lime for the doing thereof; and shall and will, at the end or other sooner determination of the said term, peaceably and quietly leave and yield up the same premises unto the said *Mary Plumber*, or her assigns, or unto such other person or persons as shall then be entitled thereto, in such good and sufficient repair as aforesaid. And further that it shall be lawful for the said *Mary Plumber*, and her assigns, during such part of the said term hereby demised as she shall live, and after her decease, for such person or persons as shall then be entitled as aforesaid, with workmen or otherwise, twice in every year during the said term, at seasonable times in the day time, to enter into and

Covenant from  
lessee to pay the  
rent.

Covenant from  
lessee to repair,  
materials being  
allowed by lessor.

Covenant from  
lessee that it  
shall be lawful  
for lessor to view  
state of repairs.

Covenant from  
lessee that he  
will use hay, &c.  
on premises,  
and spread the  
dung thereon,  
except last year  
of term.

Covenant from  
lessee that he  
will manage the  
ground in an  
husband-like  
manner.

Covenant from  
lessee that he  
will preserve  
the young  
timber, and not  
commit waste.

Covenant from  
lessee that he

upon the said premises hereby demised, and every part thereof, there to view and examine the state and condition thereof, notice of such review being at all times previously given unto the said *Charles Clay*, his executors, administrators, and assigns, one day at least before the same shall take place; and in case of any decays or want of reparation being found at any such review, the said *Charles Clay*, for himself, his executors, administrators, and assigns, doth hereby covenant, promise, and agree to and with the said *Mary Plumber*, and her assigns, and to and with such other person or persons as may be entitled to the said premises after her decease, his, her, and their heirs and assigns, to cause the same to be well and sufficiently repaired and amended within the space of six months after notice in writing shall be given to him or them for that purpose, rough timber, bricks, tiles, and lime, being allowed him and them for the doing thereof as aforesaid. AND FURTHER THAT he the said *Charles Clay*, his executors, administrators, and assigns, shall and will at all times during the continuance of this demise, spread and bestow in an husband-like manner upon the lands and grounds hereby demised, all the compost and dung which shall from time to time be made on the said premises, by fodder of cattle or otherwise, except only such compost or dung as shall be made in the last year of this demise, which the said *Charles Clay*, his executors, administrators, and assigns, shall leave upon the premises for the said *Mary Plumber*, or her assigns, or such other person or persons as aforesaid, without being allowed any thing for the same. AND FURTHER THAT he the said *Charles Clay*, his executors, administrators, and assigns, shall not nor will at any time during this demise, sow or crop any of the arable land hereby demised, with any grain or feed except clover, more than two successive years together, without permitting the same to have a summer's fallow; nor shall nor will cross crop any of the said arable lands during the said term; nor mow any of the pasture ground hereby demised more than once in any one year of the said term; but shall and will during this demise, plow, sow, manure, and manage all the lands and grounds hereby demised in a due and regular course of husbandry, according to the custom of the neighbouring country. AND further that he the said *Charles Clay*, his executors, administrators, or assigns, shall not nor will at any time during the continuance of this demise, do, or cause or voluntarily suffer to be done, any manner of waste or destruction in or upon any part of the premises hereby demised; but shall and will at all times during the said term preserve from the browse of cattle, and other avoidable injury all the young trees and underwood growing upon any part of the hereby demised premises. AND further that he the said *Charles Clay*, his executors, administrators, or

assigns, shall and will in the summer immediately preceding the expiration of the term hereby granted, prepare in an husband-like manner twenty acres of such part of the arable land hereby demised, as shall be then in course of fallow, fit to be sown with a crop the ensuing season, and also lay down with clover seed and rye grass ten acres more of the arable land hereby demised, which shall be then in tillage, sowing upon each acre thereof eight pounds of the best clover seed, and two bushels of the best rye grass seed. AND moreover that he the said *Charles Clay*, his executors, administrators, and assigns, shall and will permit, and it shall be lawful for the said *Mary Plumber*, or her assigns, if living, and for such other person or persons as shall be entitled as aforesaid, in case of her decease, his, her, or their assigns, from and after the first day of February next preceding the determination of this demise, with servants, horses, and implements of husbandry, to enter upon such closes and grounds of the said hereby demised premises as shall then be in the course of fallow, and plough, till, and manure the same for the ensuing crop, without hindrance or molestation; and also for that purpose to take and have the dung and compost which shall then be in the yard or yards belonging to the said demised premises. PROVIDED ALWAYS, and these presents are upon this condition nevertheless, that if the said rents above reserved, or any of them, or any part thereof, shall be in arrear and unpaid for the space of twenty-one days next after either of the said days whereon the same are appointed to be paid as aforesaid (the same being lawfully demanded); or if the said *Charles Clay*, his executors, administrators, or assigns, shall not well and truly observe and perform all and every the covenants and agreements in these presents contained, on his and their parts to be observed and performed, then and from thenceforth, in either of the said cases, it shall be lawful for the said *Mary Plumber*, and her assigns, if living, and in case of her decease, for the person or persons who shall be entitled to the freehold and inheritance of the said premises hereby demised, to re-enter into the same premises, or into any part thereof, in the name of the whole, and the same to have again, retain, and enjoy, as his, her, or their former estate: and the said *Charles Clay*, his executors, administrators, and assigns, and all other tenants and occupiers of the said premises, thereout and from thence utterly to expel and remove; and from and after such re-entry made, this lease and every thing herein contained shall determine and be utterly void to all intents and purposes, any thing in these presents contained to the contrary thereof notwithstanding (a). AND the said *Mary Plumber*,

will lay down part of the lands with clover in the last year of term.

Covenant from lessee that he will permit lessor's assignee to enter at Candlesmas before the end of term to cultivate.

Proviso of re-entry in case of non-payment of rent, &c.

Covenants from lessor.

(a) Besides this proviso for re-entry, there is frequently a co-

Covenant from  
lessor to provide  
materials for  
repairs.

Covenant that  
lessee may plash  
the hedges.

Covenant that  
lessee may sell  
straw if he  
bring comp. it  
in the room.

Covenant for  
peaceable en-  
joyment.

for herself, her executors, administrators, and assigns, doth covenant, promise, and agree to and with the said *Charles Clay*, his executors, administrators, and assigns, in manner following; (that is to say) that she the said *Mary Plumber*, or her assigns, during such part of the term hereby granted, as she shall live, and from and after her decease. such person and persons as shall from thenceforth be entitled to the freehold and inheritance of the said demised premises, for the remainder of the said term, shall and will, as often as there shall be occasion during this demise, find and allow unto the said *Charles Clay*, his executors, administrators, and assigns, either upon the said premises, or within three miles distance therefrom, rough timber on the stem, bricks, tiles, and lime for the necessary repairs of the said messuage or tenement, outhouses, buildings, and premises hereby demised, with the gates, stiles, pales, rails and fences belonging thereto, the said materials to be carried to the places where the same are to be used at the charge of the said *Charles Clay*, his executors, administrators, and assigns. AND ALSO that it shall be lawful for the said *Charles Clay*, his executors, administrators, and assigns, during the continuance of this demise, at seasonable times in the year, to cut and plash, in a husband-like manner, the quick hedges belonging to the said demised premises, saving and preserving all such young trees therein as may be likely to become timber, and likewise to lop the pollard trees growing upon the premises hereby demised, (so that the said hedges, and the said pollard trees respectively, be not plashed and lopped oftener than once in every year) and employ the wood which shall be got from such trees and hedges, to his and their own use, provided the said *Charles Clay*, his executors, administrators, and assigns, shall well and sufficiently make up again such hedges, as often as the same shall be plashed, and clear out the ditches belonging thereto, or otherwise fence in and preserve the same from the browse of cattle and other avoidable injury. AND ALSO that he the said *Charles Clay*, his executors, administrators, and assigns, shall at any time during this demise, except only in the last year thereof, have liberty to fell and dispose of any quantity of hay and straw arising from the said premises, on his and their spreading upon such parts of the same premises as shall stand in most need of compost, one good load of rotten dung for every load of hay or straw that shall be carried off the premises. AND ALSO that the said *Charles Clay*, his

tenant authorizing the lessor to distrain; but as the law gives him this power as incident to his estate, any express provision seems unnecessary for that purpose.



executors, administrators, and assigns, paying the rents hereinbefore reserved, and performing the covenants and agreements hereinbefore contained, on his and their parts to be paid and performed, shall and lawfully may peaceably and quietly hold and enjoy the said messuage or tenement, and other the premises hereby demised, with their appurtenances, during the term hereby granted, without hindrance or interruption by the said *Mary Plumber*, or her assigns, or any other person lawfully claiming from or under her, them, or any of them. PROVIDED ALWAYS, and it shall moreover be lawful for the said *Charles Clay*, his executors, administrators, or assigns, to determine and make void this present lease at the expiration of the first seven or fourteen years of the said term of twenty-one years hereby granted, on his or their causing notice in writing of such his or their intention to be given to or left for the said *Mary Plumber*, or her assigns, if then living, and in case of her decease, to and for such other person and persons as shall then be entitled as aforesaid, at his, her, or their usual place of abode, six calendar months at least before the time mentioned in such notice for determining the same, any thing herein before contained to the contrary thereof in any wise notwithstanding. In witness, &c.

Proviso empowering lessee to determine lease.

3. *An Indorsement for continuing the Term of an expiring Lease (a).*

THIS INDENTURE made the fifth day of December in the thirty-second year of the reign of our sovereign lord *George the Third*, by the grace of God, of *Great Britain, France, and Ireland*, king, defender of the faith, &c. and in the year of our Lord *Christ* one thousand seven hundred and ninety-two, BETWEEN the within named *John Felton*, of the one part, and the within named *Peter Thomas* of the other part. WITNESSETH, that in consideration of the rent hereby reserved, and of the covenants, conditions, and agreements herein contained on the part of the said *Peter Thomas*, his executors, administrators, and assigns, to be paid and performed, the said *John Felton*, doth demise and lease unto the said *Peter Thomas*, his executors, administrators, and assigns, ALL that piece or

Parties.

(a) This requires a seven shilling Deed stamp, notwithstanding the stamp on the lease.

## LANDLORD and TENANT.

Habendum.

parcel of ground with the messuage or tenement thereon erected, and all and singular other the premises, comprised in the within written lease, and thereby demised, TO HAVE AND TO HOLD the said piece or parcel of ground and messuage, or tenement, and all and singular other the premises hereby and by the within written lease demised and leased, or mentioned so to be, unto the said *Peter Thomas*, his executors, administrators, and assigns, from the twenty-fourth day of *June*, which will be in the year of our Lord one thousand seven hundred and ninety-three, and when the said within written lease will expire, for and during, and unto the full end and term of four years thence next ensuing, subject to and under the like rent as in the within written lease is reserved, and payable in like manner as therein is mentioned, and subject also to the like power of re-entry as well on the non-payment of rent, as on the happening of any other of the incidents mentioned in the proviso for re-entry within written. And it is hereby declared and agreed by and between the parties to these presents, that they and their respective executors, administrators, and assigns, shall and will, during the continuance of the additional term of four years hereby granted, stand and be bound by such, and the like covenants, provisos, and agreements as they, their respective executors, administrators, and assigns, are now bound by the within written lease, in respect of the said premises thereby and hereby granted, it being the intent and meaning of the parties hereto, that this indorsed lease, and the additional term hereby granted, shall be upon such and the like footing as the lease within written, and that all the covenants, conditions, and agreements contained in the within written lease be equally available, and have the like force and effect to all intents and purposes, as if the same and every thing in the said lease contained were again repeated and inserted in these presents. *In witness, &c.*

Sealed and delivered in the  
presence of

*John Felton* (Seal.)  
*Peter Thomas* (Seal.)

*Charles Bleu,* }  
*John Simms,* } of Tunbridge, Kent.

4. *A Covenant to be inserted in a Lease to indemnify the Tenant against Accidents by Fire.*

AND LASTLY, it is covenanted and agreed by and between the said parties to these presents, that the said (*tenant*), his executors, administrators, and assigns, shall not by virtue hereof, or of any thing herein contained, be chargeable with

any damage which shall or may be occasioned during the term hereby demised, by accidental fire, and that accidents by fire are wholly excepted out of the covenant herein before mentioned, for keeping and leaving the said premises in repair, and the said (*tenant*), his executors, administrators, and assigns, is not, nor shall be construed to be by colour of any clause in these presents contained, liable to make good any such accidents or damage occasioned thereby, but the same shall be repaired and made good, or, if necessary, the premises be rebuilt, as soon as may be after the happening of such fire, at the expence and charge of the said (*landlord*), his heirs, or assigns, any thing in these presents contained to the contrary in any wise notwithstanding.

---

5. *A Covenant from Lessee that he will insure the Premises from Fire, and rebuild them if burnt.*

AND that he the said (*tenant*) his executors, administrators, and assigns, shall and will at his and their own proper costs and charges, from time to time, during the continuance, and until the expiration of the term hereby granted, cause to be well and sufficiently insured, in some or one of the public offices, kept in the cities of London or Westminster, for the purpose of insuring houses from casualties by fire, all and every the messuages or tenements, erections, and buildings which shall be erected and built upon the said piece or parcel of ground hereby demised, or upon any part thereof, in the full sum of five hundred pounds of lawful money of Great Britain; and in case the said messuages or tenements, erections and buildings, or any of them, or any part of them, shall at any time or times during the said term be destroyed or damaged by fire, shall and will, as often as the same may happen, and as soon as may be thereafter, cause the same to be rebuilt or repaired, as occasion may require, in a good and substantial manner.

---

6. *Covenant that Lessee will not assign the Premises to any offensive Trade.*

AND ALSO, That he the said (*lessee*), his executors, administrators, and assigns, shall not, nor will at any time during the continuance of the said term hereby granted, assign or set over

LANDLORD *and* TENANT.

the present indenture of lease, or set, let, or assign any part of the messuage and premises hereby demised, unto either of the trades or businesses following, that is to say, the trade or business of a Sedan chairmaker, Butcher, Baker, Currier, Soap-boiler, Brewer, Distiller, Tallow-chandler, Tallow-melter, Sugar-baker, working Brazier, Tinman, Plumber, Tripe-boiler, Tripe-seller, Dyer, Founder, Smith, Pipe-maker, Pipe-borer, or any other noxious or offensive business whatsoever, without the consent in writing of the said (*landlord*), his executors, administrators, or assigns first obtained for that purpose, nor shall nor will, without such consent as aforesaid, cause to be made any addition or alteration whatever in or about the said messuage or tenement and premises, or any part thereof.

## No. III. ASSIGNMENTS.

1. *An Assignment of leasehold Premises, from a Mortgagee to a Purchaser (a).*

THIS INDENTURE made the                      day of                      in the thirty-fourth year of the reign of our sovereign Lord George the Third, by the Grace of God, of Great Britain, France, and Ireland, king, defender of the Faith, and so forth, and in the year of our Lord one thousand seven hundred and ninety-four, BETWEEN *William Johnson*, (the mortgagee), of &c. of the first part, and *Joseph King*, (the mortgagor), of &c. of the second part, and *Jeremiah Godright*, (the purchaser), of &c. of the third part. WHEREAS (*here was recited the lease by which the mortgagor held the mortgage deed and bond for securing the sum of five hundred pounds, formerly lent on the premises now assigned*), AND WHEREAS the said sum of five hundred pounds was not paid at the time appointed by the said recited indenture, for payment thereof, whereby the estate of the said *William Johnson* in the said mortgaged premises became absolute in law, AND WHEREAS there is now due to the said *William Johnson* for principal and interest on the said recited bond and mortgage the sum of five hundred and fifty pounds, AND WHEREAS the said *Jeremiah Godright* hath contracted

---

(a) To be engrossed on a seven shilling Deed stamp.



with the said *Joseph King* for the absolute purchase of the said mortgaged premises for all the residue now to come of the said term of ninety-nine years, granted by the said recited indenture of lease, at the price or sum of seven hundred pounds. NOW THIS INDENTURE WITNESSETH that for and in consideration of the said sum of five hundred and fifty pounds of lawful money of *Great Britain*, in hand, at or before the sealing of these presents, well and truly paid by the said *Jeremiah Goodright* to the said *William Johnson*, (by the direction of the said *Joseph King*, testified by his sealing and delivering hereof), which said sum of five hundred and fifty pounds is in full of all principal and interest money due to the said *William Johnson* on the said recited bond and mortgage, and the receipt of which said sum the said *William Johnson* doth hereby acknowledge, and therefrom discharge the said *Jeremiah Goodright*, and also the said *Joseph King*, their and each of their executors, administrators, and assigns, by these presents, HE the said *William Johnson*, by and with the consent, direction, and appointment of the said *Joseph King*, testified as aforesaid, HATH granted, bargained, sold, assigned, transferred, and set over, and by these presents DOTH grant, bargain, sell, assign, transfer, and set over, unto the said *Jeremiah Goodright*, his executors, administrators, and assigns, the said recited indentures of lease and release, and the said recited bond, and also the messuage or tenement, and all and singular other the hereditaments and premises, with their respective appurtenants in and by the same indentures of lease and release demised and conveyed as aforesaid, or mentioned so to be, and all the estate, right, title, interest, property, term of years, unexpired claim and demand whatsoever, of him the said *William Johnson*, of, in, and to the same premises, by virtue of the said recited indentures, or otherwise, TO HAVE AND TO HOLD the said recited indenture of lease, and indenture of assignment; and also the said piece or parcel of ground, and the messuage or tenement thereon built, and all and singular other the premises hereby assigned, with the appurtenants hereby granted, sold, and assigned, or mentioned so to be, unto the said *Jeremiah Goodright*, his executor, administrator, and assigns, from the day of the date of these presents, for and during all the residue now to come of the said term of ninety nine years, by the said recited indenture of lease granted. AND the said *William Johnson* for himself, his heirs, executors, and administrators, doth covenant, promise, and agree to and with the said *Jeremiah Goodright*, his executors, administrators, and assigns, by these presents, that he the said *William Johnson*, hath not done, or caused to be done, or knowingly suffered any act or thing whatsoever, whereby the said recited indenture of lease is, or shall, or can be made void, or the said piece or parcel of

Assignment  
from mortgagee.

Covenant from  
mortgagee that  
he has not en-  
cumbered.

Assignment  
from mortgagor.

ground, messuage, or tenement, and premises hereby assigned, or any of them, are or shall, or can be charged or incumbered in title, estate, or otherwise. AND THIS INDENTURE FURTHER WITNESSETH that for and in consideration of the further sum of one hundred and fifty pounds of lawful money of Great Britain, to the said *Joseph King*, in hand also well and truly paid by the said *Jeremiah Goodright*, at or before the sealing and delivery of these presents therewith, whereof the said *Joseph King* doth hereby acknowledge and therefrom doth release and discharge the said *Jeremiah Goodright*, his executors, and assigns, (which said sums of five hundred and fifty pounds by the said *Jeremiah Goodright* to the said *William Johnson* as aforesaid, and the one hundred and fifty pounds by him now paid to the said *Joseph King*, making together the sum of seven hundred pounds, are in full of the purchase money agreed to be paid by the said *Jeremiah Goodright* for the said premises,) he the said *Joseph King* hath granted, bargained, sold, released, and confirmed, and by these presents doth grant, bargain, sell, release, and confirm unto the said *Jeremiah Goodright*, his executors, administrators, and assigns, the said recited indenture of lease made and granted to him the said *Joseph King*, as aforesaid, and the said piece or parcel of ground, and all and singular other the premises with the appurtenances in the same indenture demised, and all the estate, right, title, interest, profit, property, term of years now to come, equity of redemption, claim and demand whatsoever, of him the said *Joseph King*, both in law and equity, or otherwise, of, in, and to the said lease and premises, or any part thereof, and all deeds, evidences, and writings touching and concerning the said hereby demised premises, or any part thereof, now in the custody or power of the said *Joseph King*, or any other person, for his use, or in trust for him, TO HAVE AND TO HOLD the said recited indenture of lease, and the said piece or parcel of ground, messuage, or tenement thereon built, and all and singular other the premises with the appurtenants herein before mentioned and expressed to be hereby granted and assigned as aforesaid, unto the said *Jeremiah Goodright*, his executors, administrators, and assigns, from henceforth for and during all the residue now to come of the said term of ninety-nine years, and the said *Joseph King* for himself, his heirs, executors, and administrators doth covenant, promise, and agree to and with the said *Jeremiah Goodright*, his executors, administrators, and assigns, by these presents, in the manner following, (that is to say) that the said recited indenture of lease made and granted to him the said *Joseph King*, as aforesaid, is at the time of the sealing and delivering of these presents, a good and valid lease, and that the term of years thereby demised is now in being, and in no wise forfeited, surrendered, or any wise encumbered,

Covenant from  
mortgagor that  
lease is valid.

(save as aforesaid) and that they, the said *Joseph King* and *William Johnson* have in themselves, or one of them hath in himself, good, right, and absolute authority to grant, bargain, sell, assign, transfer, and set over the premises meant and expressed to be hereby assigned, with their appurtenants, unto the said *Jeremiah Goodright*, his executors, administrators, and assigns, in manner aforesaid, AND that he the said *Jeremiah Goodright*, his executors, administrators, or assigns, shall, or lawfully may, for and during all the remainder now to come of the said term of ninety-nine years, by the said recited indenture of lease granted, peaceably have, hold, occupy and enjoy all and singular the premises hereby granted and assigned, or mentioned so to be, with their appurtenances, without any suit, molestation, or interruption of them the said *Joseph King* and *William Johnson*, or either of them, their or either of their executors, administrators, or assigns, or of any other person lawfully claiming from them or any of them, and that free and clear of all former and other grants, assignments, mortgages, surrenders, and other assurances and incumbrances whatsoever, made or knowingly suffered to be made by the said *Joseph King* and *William Johnson*, or either of them, or which shall or may be made by their or either of their executors, administrators, or assigns. AND FURTHER that he the said *Joseph King*, his executors and administrators, and all and every other person or persons lawfully claiming from or under him or them, shall and will at all times hereafter during the remainder now to come of the said term of ninety-nine years, at the request, costs, and charges in the law of the said *Jeremiah Goodright*, his executors, administrators, and assigns, make, do, and execute, or cause to be made, done, and executed, all such further lawful and reasonable acts and deeds in the law whatsoever, for the better and more effectually conveying, assigning, and assuring the said hereby assigned premises unto the said *Jeremiah Goodright*, his executors, administrators, and assigns, for all the remainder of the said term of ninety-nine years, which shall be then to come and unexpired, as the said *Jeremiah Goodright*, his executors, administrators, or assigns, shall reasonably require. AND LASTLY, the said *Jeremiah Goodright*, for himself, his executors, administrators, and assigns, doth covenant, promise, and agree to and with the said *Joseph King*, his executors and administrators, that he the said *Jeremiah Goodright*, his executors, administrators, and assigns, some or one of them shall and will from time to time during the remainder now to come of the said term of ninety-nine years, pay the said yearly rent of forty pounds by the said recited indenture of lease reserved, at such time and in such manner as by the said indenture the same is reserved and made payable, and shall and will perform and

Covenant for  
quiet enjoy-  
ment.

Covenant for  
further as-  
surances.

Covenant from  
assignee to pay  
rent and perform  
covenants of  
lease.

LANDLORD *and* TENANT.

observe all and every the covenants and agreements therein contained, which on the tenant's part are to be kept and performed. And also shall and will at all times, save and indemnify, and save harmless the said *Joseph King*, his executors and administrators, from all suits, damages, and expences whatsoever, which he or they may sustain or be put unto, by reason of the non-payment of the said yearly rent, or non-performance of any of the covenants in the said recited indenture of lease reserved and contained. In witness whereof the said parties have hereunto set their hands and seals the day and year first within written.

*William Johnson.* (Seal.)

*Joseph King.* (Seal.)

*Jeremiah Godright.* (Seal.)

Sealed and delivered in the presence of  
*Henry Caxton, Three Pump Court, Temple.*  
*Thomas Wills, his Clerk.*

2. *Assignment of Lease and Premises by Indorsement (a).*

TO ALL TO WHOM THESE PRESENTS SHALL COME, the within named *William Naile* sendeth greeting. WHEREAS the within named *William Naile* for the considerations hereinafter mentioned, hath agreed to assign over unto *Josiah James*, now or late servant to *Elizabeth Long*, of *Saville Row*, in the county of *Middlesex*, Widow, his executors, administrators, and assigns, the within mentioned messuage, or tenement and premises. NOW these presents WITNESS, that in pursuance of the said agreement, and for and in consideration of the sum of five pounds of lawful money of Great Britain to the said *William Naile* in hand paid by the said *Josiah James*, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, he the said *William Naile* hath granted, bargained, sold, assigned, transferred, and set over, and by these presents doth grant, bargain, sell, assign,

Assignment.

(a) This will require a seven shilling stamp besides the stamp on the lease. An assignment is equally valid by indorsement, as if made by a separate deed; and an indorsement is so far preferable, as that it prevents the necessity of repeating the rentals in the deed.



transfer, and set over, unto the said *Josiah James*, his executors, administrators, and assigns, all that the messuage, tenement, and all and singular other the premises in and by the within written indenture of lease demised, or mentioned or intended so to be, with their and every of their appurtenances; and all the estate, right, title, interest, term of years to come and unexpired, property, claim and demand whatsoever, of the within named *William Naile*, of, in, to, or out of the same premises, every or any part thereof, together with the said indenture of lease. TO HAVE AND TO HOLD the said piece or parcel of ground, and all and singular other the premises hereby, or mentioned to be hereby assigned, with their and every of their appurtenances, unto the said *Josiah James*, his executors, administrators, and assigns, from the feast-day of St. Michael the Archangel now next ensuing the date hereof, for and during all the rest, residue, and remainder, which shall be then to come and unexpired, of the term of twenty-one years, in and by the within written indenture of lease granted thereof, (determinable nevertheless at the option of the said *Josiah James*, his executors, administrators, and assigns, at the end of the first seven or fourteen years of the term of twenty-one years within granted, upon the said *Josiah James*, his executors, administrators, or assigns, giving such notice to the said *William Naile*, his executors, administrators, or assigns, as the said *William Naile* is required to give in and by the within written indenture), subject nevertheless to the payment of the rent and performance of the covenants in the same indenture of lease reserved and contained on the tenant or lessee's part, from thenceforth to be paid, done, and performed; and the said *William Naile*, doth hereby for himself, his heirs, executors, and administrators, covenant, promise, and agree, to and with the said *Josiah James*, his executors, administrators, and assigns, in manner following; (that is to say) that he the said *Josiah James*, his executors, administrators, or assigns, paying the rent, and observing and performing the covenants and agreements reserved and contained in and by the said within written indenture of lease, on the tenant or lessee's part to be paid and performed, from and after the said feast of St. Michael the Archangel now last past, shall and may from time to time, and at all times thereafter, for and during all the residue and remainder which shall be then to come and unexpired of the said term of twenty-one years (determinable as aforesaid), by the within written indenture of lease granted, lawfully, peaceably, and quietly have hold, occupy, possess, and enjoy the said piece or parcel of messuage and premises hereby assigned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues, and profits thereof, and of every part thereof, to and for his and their own use and bene-

Covenant for  
quiet enjoy-  
ment.

## LANDLORD and TENANT.

Free from incumbrances.

Covenant for further assurance.

fit, without any lawful let, vert, trouble, denial, eviction, or interruption of or by the said *William Naile*, his executors, administrators, or assigns, or any other person or persons whomsoever, lawfully claiming or to claim, by, from, or under him, them, or any of them, or by or through his or their acts, means, neglect, default, or procurement; AND that free and clear, freely and clearly acquitted and discharged, or otherwise, by the said *William Naile*, his executors, or administrators, well and sufficiently kept harmless, and indemnified of, from, and against all and all manner of former and other deeds, gifts, grants, bargains, sales, assignments, mortgages, surrenders, reentries, judgments, executions, extents, statutes, recognizances, and all other incumbrances whatsoever; AND of and from all arrears of rent, taxes, and assessments, until the said feast-day of St. Michael the Archangel next ensuing. AND FURTHER that he the said *William Naile*, his executors or administrators, and all and every other person and persons having, or lawfully claiming, or to claim any estate, right, title or interest, of, in, to, or out of the said hereby assigned premises, or any part thereof, from, by, under, or in trust, either for the within named *William Naile*, his or any of his executors or administrators, shall and will from time to time, and at all times during the continuance of the said term hereby assigned, upon every reasonable request, and at the costs and charges in the law of him the said *Josiah James*, his executors, administrators, or assigns, make, do and execute, or cause and procure to be made, done, and executed, all and every such further and other lawful and reasonable acts, conveyances, and assurances in the law, for the further and better assuring the said premises unto the said *Josiah James*, his executors, administrators, and assigns, for the then residue of the term within demised, as by the said *Josiah James*, his executors, administrators, or assigns, or his or their counsel learned in the law, shall be reasonably devised and required.

IN WITNESS whereof the said parties have hereunto set their hands and seals, this eighth day of January, one thousand seven hundred and ninety-six.

Witness,  
*Thomas Butts.*

*William Naile.* (Seal.)  
*Josiah James.* (Seal.)

TO A  
COME,  
Gent. (ex  
late of th  
WHERE  
numbered  
July, in t  
ninety-tw  
trustees o  
from fire,  
tain brie  
scribed, t  
of Middl  
from los  
next, for  
of July t  
said *John*  
pounds t  
cript wh  
fold, ass  
sens DO  
the said  
the said  
nies that  
advantag  
the said  
the said  
the said  
in his or  
proper u  
tors or a  
*Davis*,  
from th  
*Planix*  
the said  
non-pay  
ver, and  
charges  
vi, his

3. *Assignment of a Policy of Insurance (a.)*

TO ALL TO WHOM THESE PRESENTS SHALL COME, *Johnson Pitts*, of *Shadwell*, in the county of *Middlesex*, Gent. (executor of the last will and testament of *Thomas Baile*, late of the same place, Esq. deceased), SENDS GREETING, WHEREAS by a certain deed poll, or policy of insurance, numbered forty thousand and five, bearing date the fifth day of July, in the year of our Lord one thousand seven hundred and ninety-two, and executed by *James Bedwell* and *Richard White*, trustees or directors of a certain office for insuring buildings from fire, going by the name of the *Phoenix Fire Office*, a certain brick dwelling house, and other the premises therein described, situated on the north side of *Carey Street*, in the county of *Middlesex*, in the occupation of *Peter Davis*, are insured from loss by fire, from and after the sixth day of July then next, for and during the term of seven years from the fifth day of July thence next ensuing. NOW KNOW YE, that the said *Johnson Pitts*, for and in consideration of the sum of fifty pounds to him in hand paid by the said *Peter Davis*, the receipt whereof is hereby acknowledged, HATH bargained, sold, assigned, transferred, and set over, AND by these presents DOth bargain, sell, assign, transfer, and set over, unto the said *Peter Davis*, his executors, administrators, and assigns, the said recited deed poll, or policy of insurance, and all monies that shall or may become due thereon, and all benefit and advantage thereof, and all the right, title, and interest of him the said *Johnson Pitts*, in and to the same respectively. AND the said *Johnson Pitts* doth also hereby authorize and empower the said *Peter Davis*, his executors, administrators, and assigns, in his or their own name or names, and for his and their own proper use, or in the name of the said *Johnson Pitts*, his executors or administrators, but to and for the use of the said *Peter Davis*, his executors, administrators, and assigns, to receive from the trustees or directors for the time being of the said *Phoenix Fire Office*, all monies that shall or may become due on the said recited deed poll, or policy of insurance, and upon non-payment thereof, or of any part thereof, to sue for, recover, and receive the same, and to give receipts or other discharges for the same; and all and whatever the said *Peter Davis*, his executors, administrators, or assigns, shall lawfully do,

Power of Attorney to receive, &c.

---

(a) This must be written on a seven shilling Deed stamp.

## LANDLORD and TENANT.

or cause to be done, in and about the premises aforesaid, the said *Johnson Pitts* doth by these presents confirm and allow as fully and effectually as if he himself were personally present, and did the same. In witness whereof the said *Johnson Pitts* hath hereunto set his hand and seal, this second day of January, one thousand seven hundred and ninety six.

Witness,  
*Samuel Paine.*

*Johnson Pitts.* (Seal.)

4. *An Assignment by Note in Writing, indorsed on the Back of the Lease (a).*

5th June, 1796. The within named *James Pounce* hath this day assigned and made over unto the undersigned *Thomas Williams*, of *Shadwell, High-Street*, in the county of *all* and singular the hereditaments and premises in the within written lease described, and thereby granted, together with the whole of his estate and interest therein. As witness their hands now set hereto.

Witness,  
*Sykes Webb.*

*James Pounce,*  
*Thomas Williams.*

## No. IV. SURRENDERS.

1. *The Form of a Surrender of a Lease, indorsed on the Back thereof (b).*

TO ALL TO WHOM THESE PRESENTS SHALL COME, know ye that the within named *James Finch* hath surrendered and yielded up, and hereby doth surrender and

(a) This, it is said, needs no stamp; but quære? and see *ante*, p. 24. and 35 Geo. 3. c. 30. *ante*, p. 81.

(b) The surrender may be by a separate deed, or on the back of the leases; in either case, if it be under seal, it must be written on a 7s. Deed stamp, but if it be only by a mere note or memorandum, no stamp is requisite, *supra* n. (a)



Appendix.—SURRENDERS.

III

yield up unto the within named *William Downing*, all and singular the within mentioned premises, and all the estate, term and interest of the said *James Finch* therein, together also with the within written indenture of lease, TO HOLD all and singular the same premises of the said indenture of lease, unto the said *William Downing*, his heirs and assigns, for ever. In witne's whereof the said parties have hereunto set their hands and seals, this second day of March, one thousand seven hundred and ninety-six.

Witness,  
*Wm. Munns.*

*James Finch.*  
*William Downing.*

2. *Another Form by way of Memorandum or Note in Writing (a).*

Second of March, one thousand seven hundred and ninety-six. The within named *James Finch* hath this day surrendered unto the within named *William Downing*, the within lease, and all his interest therein. As witnesses their hands.

Witness,  
*Tho. Moul.*

*James Finch.*  
*William Downing.*

3. *The Surrender of a Copyhold Estate to the Use of a Purchaser (b).*

MEMORANDUM THAT on the twenty-fourth day of August, in the thirty-fifth year of the reign of our Sovereign Lord George the Third, &c. in the year of our Lord one thousand seven hundred and ninety-six, Sir Gilbert Allen, of Rippon, in the county of York, Knight, one of the customary tenants of the said manor, by *John Rich*, Gent. his attorney, (by virtue of a letter of attorney to him made by the said Sir Gilbert Allen, for that purpose, bearing date the fourth day of August instant), did surrender into the hands of the lord of the said manor, by

Manor of  
*Hampstead*, in  
the county of  
*Middlesex*.

(a) See note (a) *supra*. p. 110.

(b) Surrenders and admissions of copyhold estates (except surrenders to the use of a will) must be engrossed on a 7s. stamp if the annual value thereof are 20s. and 2s. 3d. stamp if under that value.

## LANDLORD and TENANT.

the rod, according to the custom of the same manor, by the proper hands and acceptance of *Robert Johnson*, Esq. lord of the said manor (a), ALL that, &c. to the use of *Sarah Dowse*, of, &c. widow, her heirs and assigns for ever, according to the custom of the said manor.

*Gilbert Allen.*

Taken the day and year first above written,  
by me  
*Robert Johnson*, lord of the said manor.

*The Admittance of the new Tenant.*

The manor of  
*Hampstead*, in  
the county of  
*Middl sex.*

MEMORANDUM THAT after the making the surrender hereunto annexed, viz. on this twenty-ninth day of August, one thousand seven hundred and ninety-six, *Sarah Dowse*, in the same surrender named, in her proper person, came before me *Robert Johnson*, Esq. lord of the said manor, at the mansion house of the said *Sarah Dowse*, situated near *Hampstead* aforesaid, and desired to be admitted tenant to all and singular the customary messuages, lands, tenements, and hereditaments, mentioned and contained in the same surrender, with their and every of their appurtenances, to whom the lord of the said manor, by his own proper hands, in the presence of *Jeremiah Clark*, the lord's steward for this turn, did then and there grant seisin thereof by the rod, to have and to hold the same messuages, lands, tenements, and hereditaments, with their and every of their appurtenances, unto the said *Sarah Dowse*, her heirs and assigns for ever, of the lord, at the will of the lord, according to the custom of the said manor, by fealty suit of court, and the several yearly rents and services therefore due, and of right accustomed; and the said *Sarah Dowse* gave to the lord for fine, for such her estate, and entry into the same premises respectively, as appears in the margin, the fealty was respited. And so saving the lord his right, the said *Sarah* was admitted tenant to the said premises in manner and form aforesaid.

Fine three  
pounds six shil-  
lings and eight  
pence.

*Robert Johnson*,  
Lord of the said manor.

In the presence of *Jeremiah Clarke*.

---

(a) It is more usual for the surrender to be taken by the steward, but it may be done by the lord himself.

*The Surrender of the said Sarah Dowse to the Use of her Will.*

MEMORANDUM THAT after the admission of the said *Sarah Dowse* as aforesaid, viz. on the said twenty-ninth day of August, in the year of our Lord one thousand seven hundred and ninety-six aforesaid, the said *Sarah Dowse* did surrender into the hands of the said lord of the said manor, by the rod, according to the custom of the said manor, by the proper hands and acceptance of the said lord of the said manor, all and every the customary messuages, lands, meadows, pastures, tenements, and hereditaments, to which she was admitted as above mentioned, with their and every of their appurtenances, and all other her customary and copyhold messuages, lands, tenements, and hereditaments, which are parcel of the said manor, or are held of the same manor, by copy of court-roll, to such uses, intents, and purposes, as the said *Sarah Dowse* shall in and by her last will and testament in writing, limit, declare, or appoint.

*Sarah Dowse.*

Taken the day and year above written,  
by me

*Robert Johnson*, lord of the said manor.

---

No. V. NOTICES to QUIT, to REPAIR, and  
to PAY RENT.

---

1. Notice from Landlord to Tenant to quit a House and Premises (a).

SIR,

I Hereby give you notice to quit, on or before the twenty-fifth day of March next, the house and premises situated No. 6, Gower Street, Bedford Square, in the county of Middlesex,

---

(a) Notices to quit require no stamp.

## LANDLORD and TENANT.

which you now hold of me at the rent of Sixty pounds per annum. Dated this fourth day of January, one thousand seven hundred and ninety-six.

To *Thomas Wilkes, Esq.*  
No. 6, *Gower Street, Bedford Square.*

Yours, &c.  
*John Stiles.*

Landlord of the said house and premises.

2. *Notice from Landlord to Tenant, either to quit a Farm and Premises, or pay double Rent.*

SIR,

I hereby give you notice to quit and deliver up, on or before the fifth day of January now next, the house, farm, lands, and tenements, which you now hold of me, situate No. 10, *Paddington Green*, in the county of *Middlesex*, in default whereof I shall require for the same the net yearly rent or sum of eighty-pounds, (being double the present yearly rent thereof), for such time as you shall thereafter continue possession. Dated this fourth day of October, one thousand seven hundred and ninety-six.

To Mr. *James Pie.*

*Joseph Wilson.*

Landlord of the said premises.

3. *Notice from Tenant to his Landlord to quit House and Premises.*

SIR,

I hereby give you warning that I shall quit the house and premises I now hold of you, situated No. 25, *Gerard Street, Soho Square*, on Michaelmas Day next. Dated this first day of July, one thousand seven hundred and ninety-six.

To Mr. *Peyton*,  
No. 10, *Lyon's Inn.*

Yours, &c.

*Stephen Phillips.*

4. *Notice from Landlord to Tenant, to quit Apartments.*

SIR,

I hereby give you notice to quit and deliver up, on or before the twenty-fifth day of December next, the apartments,



*Appendix.—NOTICES TO QUIT.*

115

and other tenements, you now hold of me in this house. Witness my hand this twentieth day of September, one thousand seven hundred and ninety-six.

*Miners Jones.*

---

5. *Notice from Tenant to Landlord, to quit Apartments.*

SIR,

Take notice, that on the twenty-fifth day of December next I shall quit and deliver up the apartments, and other tenements, I now hold of you in this house. Witness my hand this twentieth day of September, one thousand seven hundred and ninety-six.

*Stephen Phillips.*

---

6. *Notice from Landlord to Tenant to repair Premises (a).*

SIR,

I do hereby give you notice to put in good and tenantable repair, all and singular the house and premises which you now hold of me, situated in &c. particularly the cieling in the front room two pair of stairs in the said house, &c. &c. (*as the case may be*). As witness my hand this                      day of                      1796.

*A. Duffield.*

---

7. *Notice from Landlord to Tenant to pay Rent (b).*

SIR,

Unless you pay, or cause to be paid, unto me on or before the 6th day of July next, the sum of £. being half a year's rent due at Midsummer next, for the house you now rent of me, situated, &c. I shall insist upon such forfeiture thereof as the law entitles me to. As witness, &c.

*A. Duffield.*

---

(a) No stamp necessary.

(b) No stamp requisite.

## No. VI. RECEIPTS FOR RENT (a).

**T**WENTY-NINTH day of March, one thousand seven hundred and ninety-six, received of Mr. *James Tyson*, the sum of fifteen pounds ten shillings, being half a year's rent due from him to me at Lady Day last.

£. s. d.

15 10 0 ....Rent.

0 10 0 ....Land-tax.

£.15 0 0 ....Net sum.

*James Phillips.*

*When received for the Use of another it may be thus :*

Twenty-ninth day of March, one thousand seven hundred and nintety-six, received of Mr. *James Tyson*, the sum of fifteen pounds ten shillings, being one half year's rent due to *James Phillips*, of *Bedford Square*, Esq. for the house now occupied by the said *James Tyson*, No. 15, *Great Russel Street*, *Bloomsbury*.

£. s. d.

15 10 0 ....Rent.

0 10 0 ....Land-tax.

£.15 0 0 ....Net sum.

*William Gill,*  
*No. 6, Clifford's Inn.*

(a) The stamps required on receipts, whether for rent or other money, are as follows :

For 2l. and under 20l. 2d.

20l. and under 50l. 4d.

50l. and under, 100l. 6d.

100l. and under 200l. 1s.

200l. and upwards, 2s.

And for every receipt in full, however small the sum, 2s.

No. VII. PRECEDENTS IN DISTRESS.

1. *The Form of an Authority given by a Landlord to empower another to distrain for him (a).*

Mr. William Jones,

I do hereby authorize you to distrain the goods and chattels of *Thomas Peters*, on the premises now in his possession, situate at *Islington*, in the county of *Middlesex*, for twenty pounds, being half a year's rent due to me for the same at *Lady Day* last, and for your so doing this shall be a sufficient warrant of authority. Dated this eighth day of April, one thousand seven hundred and ninety-six.

James Fraser.

2. *The Form of an Inventory and Notice to be served on a Tenant when Distress taken of his Goods, &c. for Rent in arrear.*

An inventory of the several goods and chattels distrained by me *William Jones*, the tenth day of April, one thousand seven hundred and ninety-six, in the dwelling house (or otherwise as the case may be) of *Thomas Peters*, situated at *Islington*, in the county of *Middlesex*, by the authority and in the behalf of *James Fraser*, the landlord of the said premises, for twenty pounds, being half a year's rent due to him the said *James Fraser*, at *Lady Day* last.

*In the Dwelling House.*

- 4 Bedsteads and bedding.
- 12 Mahogany chairs.
- 2 Dining tables.

*In the Yard.*

- 5 Pigs.
- 6 Hens, &c. &c.

(a) No stamp is required on any of the following proceedings in distress, except in the replevin bond.

LANDLORD and TENANT.

*At the Bottom of this Inventory must be written the following Notice to the Tenant,*

*Thomas Peters,*

Take notice that I have this day, by the authority and on the behalf of your landlord, *James Frazer*, Esq. distrained on the premises above-mentioned, the several goods and chattels mentioned in the above inventory, for the sum therein expressed, which goods and chattels are removed to No. 10, *High Street*, and there safely impounded; and unless you pay the said sum, with the charge of distraining for the same, within the space of five days from the date hereof, the said goods and chattels will be appraised and sold, according to the statute in that behalf made and provided.

*William Jones.*

*The Person who serves the above on the Tenant, should sign a Memorandum on a Copy thereof, purporting that he has done so, and the Day when.*

---

3. *The Form of a Tenant's Consent to the Landlord's continuing in Possession upon the Premises, of Goods distrained, after the seventh Day.*

I *Thomas Peters* do hereby consent that *James Frazer*, my landlord, who on the tenth day of April last distrained my goods and chattels for rent due to him, shall continue possession thereof on the premises for the space of seven days from the date hereof, the said *James Frazer* undertaking to delay the sale of the said goods and chattels for that time, in order to enable me to discharge the said rent. Witness my hand this seventeenth day of April, one thousand seven hundred and ninety-six.

*Thomas Peters.*

---

4. *The Form of a Memorandum of an Oath being administered to Appraisers of Distress, to be indorsed on an Inventory of the Goods.*

Be it remembered that on this 6th day of April, one thousand seven hundred and ninety-six, *Joseph Pinks* and *Stephen*



*Lyons*, two sworn appraisers, were sworn upon the Holy Evangelists by me *Timothy Thomas*, constable, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of their judgment.

Witness,  
*John Lann,*  
*Michael Moses.*

*Timothy Thomas.*

5. *The Form of a Memorandum of an Appraisement of Goods distrained, to be indorsed on the Inventory thereof.*

We the above-named *Joseph Pinks* and *Stephen Lyons*, being sworn on the Holy Evangelists by the above named *Timothy Thomas*, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of our judgment, and having viewed the said goods and chattels, do appraise and value the same at the sum of thirty pounds, as witnesses our hands this      day of April, one thousand seven hundred and ninety-six.

*Joseph Pinks.*  
*Stephen Lyons.*

Witness,  
*James Wills.*

6. *The form of a Replevin Bond (a).*

KNOW ALL MEN by these presents, that we *George Thomas*, of &c. and *Edward Piles*, of the same place, gent. are held and firmly bound unto *William George*, sheriff of the said county, in the sum of one hundred pounds, (*double the value of the goods distrained*), of lawful money of Great Britain, to be paid to him the said *William George*, or his certain attorney, executors, administrators, or assigns, for which payment to be well and truly made we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally by these presents, dated this second day of June one thousand seven hundred and ninety-six.

Now the condition of this obligation is such, that if the above bounden *George Thomas* shall and do appear at the next

(a) To be written on a 7s. Deed stamp.

LANDLORD *and* TENANT.

county court to be holden for the county of *Essex*, at the town of \_\_\_\_\_ on the twelfth day of October next hereafter, and there prosecute with effect his suit which he has commenced against *Francis Topworth*, for the taking and unjustly detaining three carts, one waggon, six horses, and two cows, the goods and chattels of him the said *George*, and shall and do make a return of the said goods and chattels, if a return of the same shall be adjudged, then this obligation shall be void and of none effect, but otherwise shall remain and be in full force and virtue. Sealed with our seals the day and year first above written.

Witness,  
*James Till.*

*George Thomas.* (Seal.)  
*Edward Piles.* (Seal.)

T  
The  
r  
Adm  
d  
Wh  
The  
The  
  
The  
Req  
Wh  
An  
And  
Muf  
By v  
Nee  
Agre  
be  
Agre  
Vari  
d  
  
The  
Cau  
  
The  
Wha  
me  
How  
Muf  
May  
No c  
If de  
Prope

# I N D E X

## TO THE

### LANDLORD AND TENANT.

#### ADMITTANCE.

THE nature of an admittance to a copyhold estate	-	45
The difference between admittance on surrender and on descent	-	46
Admittance of infants and feme coverts, under 9 Geo. 1. c. 29	-	ibid
When admittance unnecessary	-	ibid
The effect of admittance	-	ibid
The form of one	-	112

#### AGREEMENT.

The nature and effect of an agreement	-	34
Requisites of an agreement	-	ibid
Who may enter into an agreement	-	ibid
An agreement should be explicit	-	35
And provide for failure	-	ibid
Must be in writing	-	ibid
By whom it must be signed	-	ibid
Need not express a consideration	-	36
Agreement for a lease, where construed to be a lease, and where not	-	15, 36
Agreements amount to a covenant	-	16, 36
Various forms of agreements (see PRECEDENTS).	-	81

#### APARTMENTS.

The notice required to quit apartments	-	53
Cautions as to hiring and letting them	-	78

#### ASSIGNMENT.

The nature of an assignment	-	23
What necessary to constitute a good assignment	-	24
How it differs from an under-lease	-	ibid
Must be in writing	-	ibid
May be by note in writing	-	ibid
No consideration necessary	-	ibid
If defective shall be construed to be an under-lease	-	ibid
Proper covenants in an assignment	-	28

Various forms of assignments (see PRECEDENTS) - 102

#### ASSIGNEE.

For what covenants of the lessor an assignee is liable	-	24
Liable for such as run with the land	-	25
Not liable for covenants broken before assignment	-	26
Nor after he has assigned over	-	ibid
Who are excluded under the word assignee	-	27
Assignee liable before entry	-	ibid

#### COPYHOLDS.

The nature of this estate	-	39
Requisites to support it	-	40
General customs of copyholds, in respect of estovers	-	ibid
Granting leases	-	ibid
Descent	-	41
Heriots	-	ibid
Wardship	-	ibid
Fines	-	42
Some other incidents to copyhold	-	43
The mode of conveying copyholds by surrender, presentment, and admittance	-	43, 45
Copyholds not within statute of frauds	-	43
May be entailed by special custom	-	ibid
What acts of a tenant amount to a forfeiture of copyholds	-	48
In cases of forfeiture the landlord may recover the estate by agreement	-	49
What act of the lord is a waiver of the forfeiture	-	ibid
Proper form of a surrender and admission of a copyhold	-	111

#### COVENANTS.

The word defined	-	15
Express and implied, what	-	ibid
The latter controlled by the former	-	16
The proper covenants to be inserted in a lease	-	ibid

# INDEX to the LANDLORD and TENANT.

An estate in jointure	-	8
An estate for years (see LEASE)	-	9
Its properties	9, 21	
Not determined by loss of lease	-	22
How destroyed	-	23
An estate at will	-	36
Its incidents, &c.	-	37
How it may be determined	-	ibid
An estate by sufferance; defined and observed upon	-	38
An estate by copy of court-roll fee (COPY-HOLDS)	-	39
Estates in severalty, joint-tenancy, coparcenary and common	-	49
(See more of estates under the word TENANT)		

## ESTOVERS.

What they are	-	5
Are incident to an estate for life	-	ibid
And to an estate for years	-	21
And to an estate at will	-	37

## FIRE.

Cases and observations relative to accidents by fire, as affecting landlord and tenant	16, 17	
The form of excepting against fire in a lease	-	89, 90
Covenant to indemnify tenant against accidents by fire	-	100
Covenant to insure premises from fire, and rebuild them if burnt	-	101

## FORFEITURE.

How forfeiture of an estate may be incurred	-	7, 38, 48
By alienation contrary to law	-	31
By waste	-	32
By non-payment of rent	-	33
(See COPYHOLD and RENT)		

## LEASE.

Of a lease for life	-	4
How to be worded	-	ibid
Who may grant leases	-	10
Tenants in fee, in tail, and for life	-	ibid
Husbands in right of their wives	-	ibid
Joint-tenants, tenants in common, and in coparcenary	-	11
Executors and administrators	-	ibid
Ecclesiastical persons	-	ibid
Guardians of infants	-	ibid
Who cannot grant leases	-	11
Mortgagors, unless subject to the mortgage	-	ibid
Infants, unless by special custom	-	12
Married women	-	ibid
Aliens	-	ibid
Requisites to constitute a good lease	4, 12, 15	
Must be in writing	-	ibid
And made to a subject of the realm	-	13

Must be read to the parties	-	13
Must be signed, sealed, and delivered	-	14
As to the commencement and determination of a lease	-	13, 23
Renewal of lease good without surrender of the old estate	-	30
Of covenants, provisions, and agreements in leases (see COVENANTS)	-	15
How a lease may be determined	-	23
By assignment	-	ibid
By surrender	-	28
By forfeiture	-	30
Proper forms of leases (see PRECEDENTS)	-	87

## LESSOR.

May enter to view repairs	-	22
But not to fell timber	-	ibid
Need not accept of an assignee as his tenant	-	28

## LODGINGS.

Observations on the law respecting notice to quit, in regard to lodgings	-	53
Notice as to lodgings depends on the length of time for which they are taken	-	ibid
If for less than a year any reasonable notice sufficient	-	ibid
The custom of London in this respect	-	ibid
The law of rents in respect as well to lodgers as others	-	55
Cautions in respect to the taking and letting lodgings	-	78
Various forms of precedents for letting lodgings	-	84, &c.
See also TITLES, AGREEMENT, ASSIGNMENT, COVENANT, DISTRESS, FORFEITURE, NOTICE TO QUIT, RENT, TENANT, WASTE.		

## MORTGAGEE.

Not liable for rent as an assignee till he has taken possession	-	27
---	---	----

## NOTE IN WRITING.

An assignment or surrender may be made by note in writing	-	24
The forms of both these	-	110, 111

## NOTICE TO QUIT.

General observations respecting	-	50
Where necessary and where not	-	51, 54
Notice from lessor and lessee at will	-	52
From an infant	-	ibid
Notice to quit lodgings (see LODGINGS)	-	53
Notice by the custom of London	-	ibid
What is a waiver of notice	-	ibid
How notice to be served	-	ibid
Where notice unnecessary	-	54



# INDEX to the LANDLORD and TENANT.

What will amount to a covenant	-	16
Express covenants are at law strictly construed— and must be performed however hard	16, 17	
But relief will in some cases be granted in equity	-	ibid
General construction of covenants	-	17
In respect to land-tax	-	18, 19
Quiet enjoyment	-	ibid
Against assignment	-	ibid
To repair	-	19
Further assurance	-	ibid
As to further term	-	ibid
As to renewal	-	ibid
As to the words "usual covenants"	-	ibid
As to merger	-	20
Re-entry	-	ibid
Where actions of covenant to be brought	ibid	
What covenants run with the land and what do not	-	25
The proper covenants in an assignment	-	28
Various forms of covenants ( <i>Appendix, Margin</i> )	-	

## DISTRESS.

For rent in arrear, what it is	-	63
Who may distrain	-	64
Executors and administrators	-	ibid
Husbands in right of their wives	-	ibid
Construction of 32 Hen. 8. c. 37. in respect to this	-	ibid
Bodies politic	-	65
Mortgagees and annuitants	-	ibid
Lord of a manor in respect of services	-	66
As to heriots	-	ibid
Who may not distrain	-	ibid
Of what things distress may be taken	-	66
By the common law	-	ibid
By statute	-	67
Things exempted from distress	-	ibid
Animals of a wild nature	-	68
Things in the way of trade	-	ibid
Things at an inn	-	ibid
Implements of trade whilst in use	-	ibid
Things fixed to the freehold	-	69
Money loose	-	ibid
Things in the custody of the law	-	ibid
Distinction as to the cattle of a stranger on tenant's land	-	ibid
Of the time and manner of making distress	-	70
Must be made in the day-time	-	ibid
Not till the day after the rent is payable	-	ibid
Nor after tender of the rent	-	ibid
May be made within six months after expira- tion of lease	-	ibid
The whole rent ought to be distrained for at one time	-	ibid
Landlord cannot distrain out of his fee, nor on the highway	-	71

May break open doors	-	71
As to concealing or removing goods from dis- tress	-	ibid
Distress must not be excessive	-	72
The penalty for unlawful distress	-	ibid
Not always unlawful when irregular	-	ibid
One distress cannot be taken for several rents	-	ibid
How a distress is to be disposed of	-	73
Cannot be driven out of the county	-	ibid
May be sold on the premises	-	ibid
Distinction as to an open and covered pound	-	ibid
Things distressed must not be used	-	74
As to loss, rescue and escape of distress	-	ibid
Distress may be sold if not replevied	-	ibid
How distress may be replevied or avoided	-	75
The statute of Marlbridge in this respect	-	ibid
Directions where the tenant means to re- plevy	-	ibid
Goods distrained beyond sea are not repleviable in England	-	ibid
Practical directions for making distress	-	75
Precedents in distress (see PRECEDENTS)	-	117

## EJECTMENT.

The nature of ejectment for recovery of rent in arrear	-	76
The provisions of 4 Geo. 2. c. 28. in respect to this	-	77
Observations thereon	-	ibid

## EMBLEMENTS.

What they are	-	6
Tenant for life entitled to them	-	ibid
But not tenant for years	-	21
Tenant at will entitled to them in most cases, but not in all	-	37

## ESTATES.

The various kinds of estates	-	1
An estate in fee simple	-	2
In what it may be lost	-	ibid
Its incidents	-	ibid
An estate of base or qualified fee	-	3
An estate of conditional fee	-	ibid
An estate in fee tail	-	ibid
Its incidents	-	ibid
An estate for life	-	4
How created, with critical remarks	-	ibid
The incidents and privileges of this estate	-	5
How it may be destroyed	-	7
An estate tail after possibility of issue extinct	-	ibid
An estate by the courtesy of England	-	8
An estate in dower	-	ibid

# INDEX to the LANDLORD and TENANT.

Parol or verbal notice good	-	54
Penalty in case of non-observance of notice given by the <i>landlord</i>	-	<i>ibid</i>
Penalty when given by the <i>tenant</i>	-	<i>ibid</i>
Various forms of notices to quit (see PRECEDENTS)	-	113

## OBSERVATIONS.

On the mode of executing particular parts of the present work	3, 8, 34, 50, 55, 79
---	----------------------

## PRECEDENTS.

Various forms of <i>agreements</i>	-	81
Agreement for letting <i>first and second floor, garret, and kitchen</i> , unfurnished	-	<i>ibid</i>
For letting <i>first floor and garret</i> furnished	-	82
For letting a piece of ground and orchard	-	83
For building a new house in the room of an old one to be pulled down	-	84
For surrendering a public house	-	87
Various forms of <i>leases</i>	-	<i>ibid</i>
<i>Lease of a house in London</i> , with proper covenants, &c.	-	<i>ibid</i>
<i>Lease of house and land in the country</i>	-	93
An indorsement for continuing the terms of an expiring lease	-	99
A covenant to indemnify tenant against accidents by fire	-	100
A covenant from a lessee to insure against fire and rebuild	-	101
A covenant not to assign premises to an offensive trade	-	<i>ibid</i>
Various forms of <i>Assignments</i>	-	102
Assignment of leasehold premises	-	<i>ibid</i>
Of a lease by indorsement	-	106
Of a policy of insurance	-	109
Assignment by note in writing	-	110
Various forms of <i>surrenders</i>	-	<i>ibid</i>
Surrender of a lease by indorsement	-	<i>ibid</i>
By note in writing	-	111
Surrender of copyhold premises and admittance thereon	-	111, 112
Various forms of <i>notices</i>	-	113
Notice from landlord to tenant to quit <i>an house</i>	-	<i>ibid</i>
The same of <i>apartments</i>	-	114
Notice to quit or pay double rent	-	<i>ibid</i>
From tenant to his landlord to quit <i>house</i>	-	<i>ibid</i>
The same of <i>apartments</i>	-	114
Notice from landlord to tenant to repair premises	-	<i>ibid</i>
The like to pay rent	-	<i>ibid</i>
Forms of receipts for rent	-	116
Receipt from the landlord himself	-	<i>ibid</i>
From the landlord's attorney	-	<i>ibid</i>
Various precedents in <i>distress</i>	-	117
An authority to empower another to distrain	<i>ibid</i>	
Inventory and notice to be served on the tenant	-	117, 118
Tenant's consent to landlord's continuing possession	-	118

Memorandum of oath being administered to the appraisers	-	118
Memorandum of appraisement being made	-	119
The form of a replevin bond	-	<i>ibid</i>

## PROVISO.

The word defined, and how it differs from a covenant	-	15
--	---	----

## RECOVERY.

Not in general good of copyholds	-	42
But is of customary freeholds	-	<i>ibid</i>

## RENT.

Defined, and the several sorts of	-	55
How to be reserved in a lease	-	<i>ibid</i>
Examples	-	<i>ibid</i>
To whom payable on the lessee's death, and certain other cases	-	57
Of demand of rent	-	58
Where necessary, and where not	-	<i>ibid</i>
How to be made previous to re-entry	-	59
Of tender and refusal of rent	-	<i>ibid</i>
Where tender to be made	-	60
What a good tender	-	<i>ibid</i>
Of acceptance of rent	-	60
After forfeiture	-	<i>ibid</i>
After notice to quit	-	61
Of recovery of rent in arrear	-	<i>ibid</i>
By action given by statute	-	<i>ibid</i>
By action at common law	-	62
By distress (see DISTRESS)	-	63
By ejectment	-	76

## REPAIRS.

Covenant to repair	-	60
The extent of such covenant	-	<i>ibid</i> n. (a)

## (See FIRE)

## STATUTES abridged in this Work.

6 Ed. 1 c. 3	-	-	31
52 Hen. 3. c. 15	-	-	74
52 Hen. 3. c. 21	-	-	75
32 Hen. 8. c. 16	-	10, 11, 12, 13	76
32 Hen. 8. c. 37	-	-	57, 64
17 Car. 2. c. 7	-	-	70
29 Car. 2. c. 3 (frauds)	-	12, 35, 36	70
29 Car. 2. c. 6	-	-	7
1 & 2 Will. & Mar.	-	-	73
2 Will. & Mar. c. 5	-	-	74
2 Will. 3. c. 5	-	-	72
6 Anne, c. 31	-	-	17
8 Anne, c. 14	-	6, 65, 79	19
9 Geo. 1. c. 29	-	42, 46, 49	19
4 Geo. 2. c. 28	30, 38, 54, 65, 62, 77	-	17
11 Geo. 2. c. 19	33, 54, 62, 67, 71, 72, 73	-	73
23 Geo. 3. c. 58	-	-	81
35 Geo. 3. c. 30	-	-	<i>ibid</i>

## SUFFERANCE.

An estate by, defined	-	38
Observations upon it	-	<i>ibid</i>

# INDEX to the LANDLORD and TENANT.

## SURRENDER.

Of an estate, what it is	-	28
May be by deed or by law	-	ibid
What necessary to make a good surrender by deed	-	29
Surrenderor must be in possession	-	ibid
And have the less estate	-	ibid
The reversion of the surrenderee must be immediate	-	ibid
Surrender may be by note in writing	-	ibid
What necessary to make a good surrender in law	-	ibid
Surrender of under-lease need not be made on renewal of lease	-	30
Surrender of copyholds, how made	-	44
In what cases it will be supplied in equity	-	ibid
Its effect on the estate	-	45, 47
May be made to the use of a person's will	-	46
Cannot be made by feme covert without her husband's consent, unless in particular cases	-	47
Not necessary to pass an equity of redemption	-	ibid
Surrender to an unmarried woman, suspended by her marriage	-	ibid
Surrenders must be construed like other common law conveyances	-	ibid
The forms of surrenders, as well of leasehold as copyhold	-	110, 111

## TENANT FOR LIFE.

His privileges	-	5
May take estovers	-	ibid
But not commit waste	-	ibid
Is not prejudiced by accidents	-	ibid
Is entitled to emblements in most cases	-	ibid
But not in all	-	6

The privileges of his lessees	6
May grant leases to determine on his death	10
Executors or administrators of tenant for life, may recover rent of lessee	10
How he may lose his estate	7
By breach of condition	ibid
By forfeiture	ibid
Action of debt will lie against him for rent	6
If absent for 7 years shall be presumed dead	7

## TENANT FOR YEARS.

Has a right to estovers	-	21
But not to emblements, unless in particular cases	-	ibid
Has a special interest in timber	-	22
Cannot remove fixtures	-	ibid
How his estate may be forfeited	-	23
(See ESTATE, LEASE, WASTE, and FORFEITURE.)		

## UNDERLEASE.

In what it differs from an assignment	24
---------------------------------------	----

## WASTE.

Waste defined	-	32
Removing fixtures is waste, unless during the term	-	ibid
Diminishing stock of animals	-	ibid
Cutting down timber	-	ibid
Conversion of land	-	ibid
Opening coal pits, &c.	-	ibid

## WILL.

Tenant at will defined	-	36
Incidents to his estate	-	ibid
(See ESTATE.)		

*This Day is published in 8vo. Price 2s. 6d. sewed, the Second*

Edition of the LAWS respecting  
**WILLS, TESTAMENTS, and CODICILS,**  
And EXECUTORS and ADMINISTRATORS,

Laid down in a plain and easy Manner; with all technical  
TERMS OF LAW familiarly explained;

And in which the Statute of WILLS and such Parts of the Statute of  
FRAUDS and PERJURIES as relate to the Subject of DEVISES, are  
particularly considered and expounded:

With proper REMARKS and DIRECTIONS for those who wish to make  
their own WILLS.

Also the Methods of Descent and Distribution of Property, where no Will is  
made; as collected from the several REPORTS and other Books of Au-  
thority, up to the present Time.

Containing likewise an Account of the necessary Expences attending the Pro-  
bate of Wills, and obtaining of Letters of Administration; with the  
Stamps on which Discharges for Legacies, and Distributive Shares of In-  
testate Effects, are to be written.

And an APPENDIX of PRECEDENTS,

Comprising a great Variety of the most approved Forms of WILLS, TES-  
TAMENTS, and CODICILS, relative to every Species of Property.

The Whole interspersed with Observations, NOTES, and REFERENCES,  
adapted to the Use of the Profession.

To which is added, the late Act of 36 Geo. III. imposing new Duties on Per-  
sonal Legacies, and residuary Effects.

---

*Likewise, Price 2s. sewed,*

The LAWS respecting  
**MASTERS AND SERVANTS;**  
**ARTICLED-CLERKS, APPRENTICES,**  
**JOURNEYMEN, & MANUFACTURERS.**

Comprising as well the LAWS of COMBINATION, as all other  
Matters respecting those Persons.

Laid down in a PLAIN and EASY Manner; in which all TECHNICAL  
TERMS OF LAW are familiarly explained.

Collected and digested from the several REPORTS and other BOOKS of  
AUTHORITY, up to the present Time.

Also, a complete Abstract of the late Act relative to the Admission of Articled  
Clerks as practising Solicitors and Attornies in his Majesty's Courts at  
Westminster, and the Courts of great Sessions in Wales.

Together with an APPENDIX of PRECEDENTS;

Comprising a great Variety of the most approved Forms of  
ARTICLES and INDENTURES of CLERKSHIP and APPRENTICE-  
SHIP; as well as of ASSIGNMENTS and other INSTRUMENTS re-  
lating to the above Subject.

The Whole interspersed with Notes and References, adapted to the Use of  
the Profession.



*Also, Price 2s. 6d. sewed,*  
The LAWS respecting  
**P A R I S H   M A T T E R S.**

Containing the several Offices and Duties of  
CHURCHWARDENS, OVERSEERS OF THE POOR,  
CONSTABLES, WATCHMEN, PARISH-CLERK,  
SEXTON, BEADLE, &c. &c.

Together with the Laws respecting  
RATES AND ASSESSMENTS, SETTLEMENTS AND REMOVALS,  
and of the POOR in general,

Laid down in a *plain and easy* Manner; and in which all *technical Terms*  
of Law are familiarly explained.

The whole collected from the several  
REPORTS, AND OTHER BOOKS OF AUTHORITY,  
Up to the present Time;

And interspersed with Notes and References adapted to the Use of the  
Profession.

Also, a complete Abstract of the Act passed 35 Geo. III. to prevent the Re-  
moval of Poor Persons until they shall become actually chargeable.

With an APPENDIX of PRECEDENTS,  
Comprising a great Variety of the most approved Forms of all such  
Instruments as most frequently occur in the  
MANAGEMENT of PARISH AFFAIRS.

*§ The above Publications, and the Laws relating to LANDLORDS and  
TENANTS, may be had bound up together in one convenient Volume, under  
the Title of LAW SELECTIONS.*

---

*Also, in a neat Pocket Size, Price 1s. 6d.*  
The SECOND EDITION of  
**T H E   G A M E   L A W S;**  
OR THE  
**S P O R T S M A N   a n d   G A M E K E E P E R ' s**  
**P O C K E T - B O O K ;**

Being a comprehensive and familiar Treatise,

Comprising, among other Matters,  
All the Statutes and Resolutions of the Courts relating to HARES, PAR-  
TRIDGES, PHEASANTS, RABBITS, GROUSE, FISH, and other  
GAME;

Together with some general and particular Remarks tending to explain their  
Import, and facilitate their Construction.

To which are also added,

The Mode of recovering PENALTIES under the Game Laws; the Law of  
TRESPASS in the PURSUIT of GAME, and the general Law relating to  
DOGS,

*This Day is published, in a neat Pocket Volume, Price 3s. 6d.  
bound,*

**THE GROUNDS AND MAXIMS,**

AND ALSO

**An ANALYSIS of the ENGLISH LAWS,**

By W. NOY, Esq. of Lincoln's-Inn;

To which is annexed,

**A TREATISE of ESTATES,**

By Sir JOHN DODDERIDGE, Knt.

And Observations on a

**DEED of FEEOFFMENT,**

By T. H. Gent.

The sixth Edition, with Notes and References, and other considerable  
Additions and Improvements,

By CHARLES BARTON, of the Inner Temple, Esq.

---

*In Octavo, Price 6s. in Boards, the second Edition,*  
**Of a COLLECTION of CASES on the  
ANNUITY ACT;**

With an Epitome of the practice relative to the Enrollment of Memorials.  
By W. HUNT, Esq. of Lincoln's-Inn, Barrister at Law.

---

*In Octavo, Price 5s. in Boards,*  
An historical Treatise of a  
**SUIT IN EQUITY,**

In which is attempted a scientific deduction of the Proceedings used on the  
Equity Side of the Courts of Chancery and Exchequer, from the Com-  
mencement of the Suit, to the Decree and Appeal; with occasional Re-  
marks on their Import and Efficacy, and an introductory Discourse on the  
Rise and Progress of the equitable jurisdiction of those Courts.

By C. BARTON, Esq.

Of the Inner Temple, Barrister at Law.

---

*In Quarto, Price 10s. 6d. in Boards.*  
**COSTS and PRESENT PRACTICE in the  
COURT OF CHANCERY;**

With Directions and Remarks for the Guidance of the Solicitor in con-  
ducting of a Cause, from the Commencement to its Close; and also in  
the conducting other Proceedings in Matters under the Jurisdiction of the  
Court, or the Lord Chancellor.

In a Manner entirely new. Comprehending the Proceedings before the  
MASTER, in all the Enquiries usually directed to him, particularly in  
the Appointment of a Receiver, Sales of Estates, Appointment of Guar-  
dians for Infants, their Maintenance, &c. &c.

With an APPENDIX, containing a Variety of Modern Precedents, in necessary  
Use during the Progress of a Cause,

By SAMUEL TURNER, Solicitor.

The Second Edition, with considerable Additions, Notes, References, &c.  
Including the Costs and Practice in Proceedings under a Commission of  
LUNACY.